No. 18-966

In the Supreme Court of the United States

DEPARTMENT OF COMMERCE, ET AL., PETITIONERS

v.

STATE OF NEW YORK, ET AL.

ON WRIT OF CERTIORARI BEFORE JUDGMENT
TO THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

JOINT APPENDIX
(VOLUME 1)

NOEL J. FRANCISCO
Solicitor General
Department of Justice
Washington, D.C. 20530-0001
SupremeCtBriefs@usdoj.gov
(202) 514-2217

Counsel of Record
for Petitioners

DALE E. HO
America Civil Liberties Union
125 Broad Street
New York, NY 10004
dale.ho@aclu.org
212-549-2693

BARBARA DALE UNDERWOOD
Office of the Attorney General
28 Liberty Street
New York, NY 10005-1400
Barbara.underwood@ag.ny.gov
212-416-8016

Counsels of Record
for Respondents

PETITION FOR A WRIT OF CERTIORARI FILED: JAN. 25, 2019
CERTIORARI GRANTED: FEB. 15, 2019

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UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Docket No. 19-212

STATE OF NEW YORK; STATE OF CONNECTICUT; STATE OF DELAWARE; DISTRICT OF COLUMBIA; STATE OF ILLINOIS; STATE OF IOWA; STATE OF MARYLAND; COMMONWEALTH OF MASSACHUSETTS; STATE OF MINNESOTA; STATE OF NEW JERSEY; STATE OF NEW MEXICO; STATE OF NORTH CAROLINA; STATE OF OREGON; COMMONWEALTH OF PENNSYLVANIA; STATE OF RHODE ISLAND; COMMONWEALTH OF VIRGINIA; STATE OF VERMONT; STATE OF WASHINGTON; CITY OF CHICAGO, ILLINOIS; CITY OF NEW YORK; CITY OF PHILADELPHIA; CITY OF PROVIDENCE; CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA; UNITED STATES CONFERENCE OF MAYORS; CITY OF SEATTLE, WASHINGTON; CITY OF PITTSBURGH; COUNTY OF CAMERON; STATE OF COLORADO; CITY OF CENTRAL FALLS; CITY OF COLUMBUS; COUNTY OF EL PASO; COUNTY OF MONTEREY; COUNTY OF HIDALGO; NEW YORK IMMIGRATION COALITION; MAKE THE ROAD NEW YORK; ARAB-AMERICAN ANTI-DISCRIMINATION COMMITTEE; ADC RESEARCH INSTITUTE; CASA DE MARYLAND, INC., PLAINTIFFS-APPELLEES

v.

UNITED STATES DEPARTMENT OF COMMERCE; UNITED STATES CENSUS BUREAU, AN AGENCY WITHIN THE UNITED STATES DEPARTMENT OF COMMERCE; WILBUR L. ROSS, IN HIS OFFICIAL CAPACITY AS SECRETARY OF COMMERCE; STEVEN DILLINGHAM, IN HIS OFFICIAL CAPACITY AS DIRECTOR OF THE CENSUS, DEFENDANTS-APPELLANTS

DOCKET ENTRIES

DATE	DOCKET NUMBER	PROCEEDINGS
1/22/19	1	NOTICE OF CIVIL APPEAL, with district court docket, on behalf of Appellant Steven Dillingham, Wilbur L. Ross, United States Census Bureau and United States Department of Commerce, FILED. [2480029] [19-212] [Entered: 01/23/2019 10:20 AM]
		* * * * *
1/25/19	24	MOTION, to expedite appeal, on behalf of Appellant Steven Dillingham, Wilbur L. Ross, United States Census Bureau and United States Department of Commerce, FILED. Service date 01/25/2019 by CM/ECF. [2482821] [19-212] [Entered: 01/25/2019 04:40 PM]
		* * * * *
2/1/19	37	MOTION ORDER, granting motion to expedite appeal [24] filed by Appellant United States Department of Commerce, United States Census Bureau, Wilbur L. Ross and Steven Dillingham. Government's opening brief due February 15, 2019; Plaintiffs-Appellees' answering brief due March 15, 2019; and

DATE	DOCKET NUMBER	PROCEEDINGS
		Government's reply brief due March 25, 2019, by DC, FILED. [2487818] [37] [19-212] [Entered: 02/01/2019 04:34 PM]
		* * * * *
2/15/19	61	MOTION, to hold appeal in abeyance, on behalf of Appellant Steven Dillingham, Wilbur L. Ross, United States Census Bureau and United States Department of Commerce, FILED. Service date 02/15/2019 by CM/ECF. [2498472] [19-212] [Entered: 02/15/2019 04:59 PM]
2/19/19	64	MOTION ORDER, granting motion to hold appeal in abeyance [61] filed by Appellant United States Department of Commerce, United States Census Bureau, Wilbur L. Ross and Steven Dillingham, FILED. [2499657] [64] [19-212] [Entered: 02/19/2019 03:39 PM]
		* * * * *

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Docket No. 18-2857

UNITED STATES DEPARTMENT OF COMMERCE; WILBUR L. ROSS, IN HIS OFFICIAL CAPACITY AS SECRETARY OF COMMERCE; UNITED STATES CENSUS BUREAU, AN AGENCY WITHIN THE UNITED STATES DEPARTMENT OF COMMERCE; RON S. JARMIN, IN HIS CAPACITY AS THE DIRECTOR OF THE U.S. CENSUS BUREAU, PETITIONERS

v.

NEW YORK IMMIGRATION COALITION; CASA DE MARYLAND, INC.; AMERICAN-ARAB ANTI-DISCRIMINATION COMMITTEE; ADC RESEARCH INSTITUTE; MAKE THE ROAD NEW YORK, RESPONDENTS

DOCKET ENTRIES

DATE	DOCKET NUMBER	PROCEEDINGS
9/27/18	1	ORIGINAL PROCEEDING, PETITION FOR WRIT OF MANDAMUS, on behalf of Petitioner Ron S. Jarmin, Wilbur L. Ross, United States Census Bureau and United States Department of Commerce, FILED. [2399335] [18-2857] [Entered: 09/28/2018 12:06 PM]

* * * * *

DATE	DOCKET NUMBER	PROCEEDINGS
9/28/18	11	LETTER, on behalf of Petitioner United States Department of Commerce, , informing that the case has noticed the deposition of Commerce Secretary Wilbur Ross for Thursday, October 11, 2018, requesting a decision on the motion for stay by 10/1/18, RECEIVED. Service date 09/28/2018 by CM/ECF. [2399562] [18-2857]—[Edited 09/28/2018 by RD] [Entered: 09/28/2018 02:24 PM]
9/28/18	15	ORDER, As part of its petitions for writ of mandamus, the Government seeks an administrative stay of the depositions of Secretary of Commerce Wilbur Ross and John Gore, the Acting Assistant Attorney General of the Department of Justice's Civil Rights Division. IT IS HEREBY ORDERED that the deposition of Secretary Ross is stayed pending determination of the petitions. Answers to the petitions must be filed by October 4, 2018 at noon. The petitions, as they pertain to Secretary Ross, are REFERRED to the motions panel sitting on Tuesday, Octo-

DATE	DOCKET NUMBER	PROCEEDINGS
		ber 9, 2018. To the extent the Government seeks a stay of Acting Attorney General Gore's deposition, that request is REFERRED to the panel that determined the petitions in docket numbers 18-2652 and 18-2659, by PWH, FILED. [2399745] [18-2857]—[Edited 09/28/2018 by RD] [Entered: 09/28/2018 03:47 PM]
		* * * * *
10/2/18	33	ORDER, Petitioners request a stay of discovery in Nos. 18-2652 and 18-2659, including the deposition of Acting Assistant Attorney General Gore, pending review by the Supreme Court. We have considered the relevant factors and conclude that a stay in those cases is not warranted. See U.S. S.E.C. v. Citigroup Glob. Mkts. Inc., 673 F.3d 158, 162 (2d Cir. 2012). Upon due consideration, it is hereby ORDERED that the request for a stay is DENIED. By PNL, RSP, RCW, FILED. [2401667] [18-2857] [Entered: 10/02/2018 02:41 PM]

DATE	DOCKET NUMBER	PROCEEDINGS
		* * * * *
10/4/18	37	OPPOSITION TO WRIT, [1], on behalf of Respondent ADC Research Institute, American-Arab Anti-Discrimination Committee, CASA de Maryland, Inc., Make the Road New York and New York Immigration Coalition, FILED. Service date 10/04/2018 by CM/ECF. [2403566] [18-2857] [Entered: 10/04/2018 12:27 PM]
		* * * * *
10/5/18	45	REPLY BRIEF, on behalf of Petitioner Ron S. Jarmin, Wilbur L. Ross, United States Census Bureau and United States Department of Commerce, FILED. Service date 10/05/2018 by CM/ECF. [2404881] [18-2857] [Entered: 10/05/2018 03:57 PM]
10/5/18	46	LETTER, on behalf of Petitioner Ron S. Jarmin, Wilbur L. Ross, United States Census Bureau and United States Department of Commerce, informing of an order issued by Justice Ginsburg RECEIVED. Service date 10/05/2018 by CM/ECF. [2405016] [18-2857]—[Edited

DATE	DOCKET NUMBER	PROCEEDINGS
		10/09/2018 by RD] [Entered: 10/05/2018 08:51 PM]
10/7/18	47	LETTER, on behalf of Respondent ADC Research Institute, American-Arab Anti-Discrimination Committee, CASA de Maryland, Inc., Make the Road New York and New York Immigration Coalition, in response to petitioner's letter dated 10/5/18, regarding order issued by Justice Ginsburg RECEIVED. Service date 10/07/2018 by CM/ECF. [2405027] [18-2857]—[Edited 10/09/2018 by RD] [Entered: 10/07/2018 11:06 AM]
		* * * * *
10/9/18	53	ORDER, denying petition for writ of mandamus, by JMW, RJL, W.H. PAULEY III, FILED. [2405883] [18-2857] [Entered: 10/09/2018 04:00 PM]
		* * * * *
10/9/18	55	ORDER, dated 10/09/2018, the request for a stay of documentary discovery is denied and the deposition is temporarily stayed, by PNL, RSP, RCW, FILED. [2406124] [18-2857]—[Edited

DATE	DOCKET NUMBER	PROCEEDINGS
		10/10/2018 by YL] [Entered: 10/10/2018 07:49 AM]
		* * * * *
10/25/18	64	MOTION, to stay, on behalf of petitioner Ron S. Jarmin, Wilbur L. Ross, United States Census Bureau and United States Department of Commerce, FILED. Service date 10/25/2018 by CM/ECF. [2418919] [18-2857] [Entered: 10/25/2018 05:17 PM]
10/26/18	67	MOTION ORDER, denying motion for a stay of pretrial and trial proceedings in two consolidated district court cases pending resolution of their forthcoming petition for a writ of mandamus or certiorari in the Supreme Court [64] filed by Petitioner United States Department of Commerce, United States Census Bureau, Wilbur L. Ross and Ron S. Jarmin, by JMW, RJL, W. PAULEY, FILED. [2419991] [67] [18-2857] [Entered: 10/26/2018 05:20 PM]
10/26/18	68	MOTION ORDER, denying motion for a stay of pretrial and trial proceedings in two consoli-

DATE	DOCKET NUMBER	PROCEEDINGS
		dated district court cases pending resolution of their forthcoming petition for a writ of mandamus or certiorari in the Supreme Court [64] filed by Movants United States Department of Commerce, United States Census Bureau, Wilbur L. Ross and Ron S. Jarmin, by JMW, RJL, W. PAULEY, FILED. [2420010] [18-2857] [Entered: 10/26/2018 05:56 PM]
10/30/18	74	ORDER, dated 10/30/2018, regarding docket Nos. 18-2652 & 18-2659, denying motion for a stay of pretrial and trial proceedings in two consolidated district court cases pending resolution of their forthcoming petition for a writ of mandamus or certiorari in the Supreme Court, filed by Movants United States Department of Commerce, United States Census Bureau, Wilbur L. Ross and Ron S. Jarmin, by PNL, RSP, RCW, FILED. [2437439] [18-2857] [Entered: 11/19/2018 05:12 PM]

* * * * *

DATE	DOCKET NUMBER	PROCEEDINGS
11/19/18	72	MOTION, to stay, on behalf of Petitioner Ron S. Jarmin, Wilbur L. Ross, United States Census Bureau and United States Department of Commerce, FILED. Service date 11/19/2018 by CM/ECF. [2436949] [18-2857] [Entered: 11/19/2018 01:07 PM]
11/20/18	77	MOTION ORDER, denying motion for stay [72] filed by Movants United States Department of Commerce, United States Census Bureau, Wilbur L. Ross and Ron S. Jarmin, as premature, without prejudice to renewal, by JMW, RJL, W. PAULEY, FILED. [2438574] [77] [18-2857] [Entered: 11/20/2018 03:19 PM]
11/20/18	79	LETTER, on behalf of Petitioner Ron S. Jarmin, Wilbur L. Ross, United States Census Bureau and United States Department of Commerce, advising the Court that the District Court denied federal government's request for a stay of further proceedings in light of the Supreme Court's grant of the government's petition for a writ of certiorari in In re Department of

DATE	DOCKET NUMBER	PROCEEDINGS
		Commerce, No. 18-557 (U.S.), RECEIVED. Service date 11/20/2018 by CM/ECF. [2438960] [18-2857]—[Edited 11/21/2018 by YS] [Entered: 11/20/2018 05:39 PM]
11/21/18	83	ORDER, dated 11/21/2018, denying Government's motions for stay and denying as moot Government's motion for an immediate administrative stay pending the resolution of its motion to stay proceeding, by JMW, RJL, W. PAULEY, FILED. [2440183] [18-2857] [Entered: 11/21/2018 02:42 PM]

* * * * *

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Docket No. 18-2856

UNITED STATES DEPARTMENT OF COMMERCE; WILBUR L. ROSS, IN HIS OFFICIAL CAPACITY AS SECRETARY OF COMMERCE; UNITED STATES CENSUS BUREAU, AN AGENCY WITHIN THE UNITED STATES DEPARTMENT OF COMMERCE; RON S. JARMIN, IN HIS CAPACITY AS THE DIRECTOR OF THE U.S. CENSUS BUREAU, PETITIONERS

v.

STATE OF NEW YORK; STATE OF CONNECTICUT; STATE OF DELAWARE; DISTRICT OF COLUMBIA; STATE OF ILLINOIS; STATE OF IOWA, STATE OF MARYLAND; COMMONWEALTH OF MASSACHUSETTS; STATE OF MINNESOTA; STATE OF NEW JERSEY; STATE OF NEW MEXICO; STATE OF NORTH CAROLINA; STATE OF OREGON; COMMONWEALTH OF PENNSYLVANIA; STATE OF RHODE ISLAND; COMMONWEALTH OF VIRGINIA; STATE OF VERMONT; STATE OF WASHINGTON; CITY OF CHICAGO, ILLINOIS; CITY OF NEW YORK; CITY OF PHILADELPHIA; CITY OF PROVIDENCE; CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA; UNITED STATES CONFERENCE OF MAYORS; CITY OF SEATTLE, WASHINGTON; CITY OF PITTSBURGH; COUNTY OF CAMERON; STATE OF COLORADO; CITY OF CENTRAL FALLS; CITY OF COLUMBUS; COUNTY OF EL PASO; COUNTY OF MONTEREY; COUNTY OF HIDALGO, RESPONDENTS

DOCKET ENTRIES

DATE	DOCKET NUMBER	PROCEEDINGS
9/27/18	1	ORIGINAL PROCEEDING, PETITION FOR WRIT OF MANDAMUS, on behalf of Petitioner Ron S. Jarmin, Wilbur L. Ross, United States Census Bureau and United States Department of Commerce, FILED. [2399277] [18-2856] [Entered: 09/28/2018 11:39 AM]
		* * * * *
9/28/18	17	ORDER, As part of its petitions for writ of mandamus, the Government seeks an administrative stay of the depositions of Secretary of Commerce Wilbur Ross and John Gore, the Acting Assistant Attorney General of the Department of Justice's Civil Rights Division. IT IS HEREBY ORDERED that the deposition of Secretary Ross is stayed pending determination of the petitions. Answers to the petitions must be filed by October 4, 2018 at noon. The petitions, as they pertain to Secretary Ross, are REFERRED to the motions panel sitting on Tuesday, October 9, 2018. To the extent the Government seeks a stay of Acting Attorney General Gore's deposi-

DATE	DOCKET NUMBER	PROCEEDINGS
		tion, that request is REFERRED to the panel that determined the petitions in docket numbers 18-2652 and 18-2659. dated 09/28/2018, by PWH, FILED. [23997511 [18-2856]—[Edited 09/28/2018 by RD] [Entered: 09/28/2018 03:50 PM]
		* * * * *
10/2/18	30	ORDER, Petitioners request a stay of discovery in Nos. 18-2652 and 18-2659, including the deposition of Acting Assistant Attorney General Gore, pending review by the Supreme Court. We have considered the relevant factors and conclude that a stay in those cases is not warranted. See U.S. S.E.C. v. Citigroup Glob. Mkts. Inc., 673 F.3d 158, 162 (2d Cir. 2012). Upon due consideration, it is hereby ORDERED that the request for a stay is DENIED. By PNL, RSP, RCW, FILED. [2401657] [18-2856] [Entered: 10/02/2018 02:32 PM]
		* * * * *
10/4/18	37	OPPOSITION TO WRIT, [1], on behalf of Respondent City and

DATE	DOCKET NUMBER	PROCEEDINGS
		County of San Francisco, California, City of Central Falls, City of Chicago, Illinois, City of Columbus, City of New York, City of Philadelphia, City of Pittsburgh, City of Providence, City of Seattle, Washington, Commonwealth of Massachusetts, Commonwealth of Pennsylvania, Commonwealth of Virginia, County of Cameron, County of El Paso, County of Hidalgo, County of Monterey, District of Columbia, State of Colorado, State of Connecticut, State of Delaware, State of Illinois, State of Iowa, State of Maryland, State of Minnesota, State of New Jersey, State of New Mexico, State of New York, State of North Carolina, State of Oregon, State of Rhode Island, State of Vermont, State of Washington and United States Conference of Mayors, FILED. Service date 10/04/2018 by CM/ECF. [2403752] [18-2856] [Entered: 10/04/2018 02:54 PM]
		* * * * *
10/5/18	43	REPLY BRIEF, on behalf of Petitioner Ron S. Jarmin, Wilbur

DATE	DOCKET NUMBER	PROCEEDINGS
		L. Ross, United States Census Bureau and United States Department of Commerce, FILED. Service date 10/05/2018 by CM/ECF. [2404868] [18-2856] [Entered: 10/05/2018 03:52 PM]
10/5/18	44	LETTER, on behalf of Petitioner Ron S. Jarmin, Wilbur L. Ross, United States Census Bureau and United States Department of Commerce, regarding order issued by Justice Ginsburg, denying stay, RECEIVED. Service date 10/05/2018 by CM/ECF. [2405015] [18-2856] –[Edited 10/09/2018 by RD] [Entered: 10/05/2018 08:49 PM]
10/6/18	45	LETTER, on behalf of Respondent State of New York, City and County of San Francisco, California, City of Central Falls, City of Chicago, Illinois, City of Columbus, City of New York, City of Philadelphia, City of Pittsburgh, City of Providence, Commonwealth of Massachusetts, Commonwealth of Pennsylvania, Commonwealth of Virginia, County of Cameron, County of El Paso, County of Hidalgo, County of Monterey, District of Columbia,

DATE	DOCKET NUMBER	PROCEEDINGS
		State of Colorado, State of Connecticut, State of Delaware, State of Illinois, State of Iowa, State of Maryland, State of Minnesota, State of New Jersey, State of New Mexico, State of North Carolina, State of Rhode Island, State of Vermont, State of Washington and United States Conference of Mayors, regarding deposition of Secretary of Commerce in a related lawsuit, RECEIVED. Service date 10/06/2018 by CM/ECF. [2405025] [18-2856] —[Edited 10/09/2018 by RD] [Entered: 10/06/2018 06:48 PM]
10/7/18	46	LETTER, on behalf of Respondent City and County of San Francisco, California, City of Central Falls, City of Chicago, Illinois, City of Columbus, City of New York, City of Philadelphia, City of Pittsburgh, City of Providence, City of Seattle, Washington, Commonwealth of Massachusetts, Commonwealth of Pennsylvania, Commonwealth of Virginia, County of Cameron, County of El Paso, County of Hidalgo, County of Monterey, District of Columbia, State of Colorado,

DATE	DOCKET NUMBER	PROCEEDINGS
		State of Connecticut, State of Delaware, State of Illinois, State of Iowa, State of Maryland, State of Minnesota, State of New Jersey, State of New Mexico, State of New York, State of North Carolina, State of Oregon, State of Rhode Island, State of Vermont, State of Washington and United States Conference of Mayors, in response to petitioner's letter notifying this Court of Justice Ginsburg's order, RECEIVED. Service date 10/07/2018 by CM/ECF. [2405028] [18-2856] —[Edited 10/09/2018 by RD] [Entered: 10/27/2018 11:27 AM]
		* * * * *
10/9/18	55	ORDER, denying petition for writ of mandamus, by JMW, RJL, W.H. PAULEY III, FILED. [2405868] [18-2856] [Entered: 10/09/2018 03:54 PM]
		* * * * *
10/9/18	57	ORDER, dated 10/09/2018, the request for a stay of documentary discovery is denied and the deposition is temporarily stayed, by PNL, RSP, RCW, FILED. [2406123] [18-2856]—

DATE	DOCKET NUMBER	PROCEEDINGS
		[Edited 10/10/2018 by YL] [Entered: 10/10/2018 07:47 AM]
		* * * * *
10/25/18	68	MOTION, to stay, on behalf of Petitioner Ron S. Jarmin, United States Department of Commerce, Wilbur L. Ross and United States Census Bureau, FILED. Service date 10/25/2018 by CM/ECF. [2418916] [18-2856] [Entered: 10/25/2018 05:14 PM]
10/26/18	72	LETTER, on behalf of Respondent City and County of San Francisco, California, City of Central Falls, City of Chicago, Illinois, City of Columbus, City of New York, City of Philadelphia, City of Pittsburgh, City of Providence, City of Seattle, Washington, Commonwealth of Massachusetts, Commonwealth of Pennsylvania, Commonwealth of Virginia, County of Cameron, County of El Paso, County of Hidalgo, County of Monterey, District of Columbia, State of Colorado, State of Connecticut, State of Delaware, State of Illinois, State of Iowa, State of Maryland, State of Minnesota, State of New Jersey,

DATE	DOCKET NUMBER	PROCEEDINGS
		State of New Mexico, State of New York, State of North Carolina, State of Oregon, State of Rhode Island, State of Vermont, State of Washington and United States Conference of Mayors, will submit an opposition to the motion for stay, RECEIVED. Service date 10/26/2018 by CM/ECF. [2419836] [18-2856]—[Edited 10/26/2018 by RO] [Entered: 10/26/2018 03:52 PM]
10/26/18	74	MOTION ORDER, denying motion for a stay of pretrial and trial proceedings in two consolidated district court cases pending resolution of their forthcoming petition for a writ of mandamus or certiorari in the Supreme Court [68] filed by Petitioner United States Department of Commerce, United States Census Bureau, Wilbur L. Ross and Ron S. Jarmin, by JMW, RJL, W. PAULEY, FILED. [2419989] [74] [18-2856] [Entered: 10/26/2018 05:19 PM]
10/26/18	75	MOTION ORDER, denying motion for a stay of pretrial and trial proceedings in two consolidated district court cases pending reso-

DATE	DOCKET NUMBER	PROCEEDINGS
		lution of their forthcoming petition for a writ of mandamus or certiorari in the Supreme Court [68] filed by Movants United States Department of Commerce, United States Census Bureau, Wilbur L. Ross and Ron S. Jarmin, by JMW, RJL, W. PAULEY, FILED. [2420009] [18-2856] [Entered: 10/26/2018 05:54 PM]
10/30/18	81	ORDER, dated 10/30/2018, regarding docket Nos. 18-2652 & 18-2659, denying motion for a stay of pretrial and trial proceedings in two consolidated district court cases pending resolution of their forthcoming petition for a writ of mandamus or certiorari in the Supreme Court, filed by Movants United States Department of Commerce, United States Census Bureau, Wilbur L. Ross and Ron S. Jarmin, by PNL, RJP, RCW, FILED. [2437437] [18-2856] [Entered: 11/19/2018 05:10 PM]
		* * * * *
11/19/18	79	MOTION, to stay, on behalf of Petitioner Ron S. Jarmin, Wilbur L. Ross, United States Census

DATE	DOCKET NUMBER	PROCEEDINGS
		Bureau and United States Department of Commerce, FILED. Service date 11/19/2018 by CM/ECF. [2436948] [18-2856] [Entered: 11/19/2018 01:06 PM]
11/20/18	84	MOTION ORDER, denying motion for stay [79] filed by Movants, United States Department of Commerce, United States Census Bureau, Wilbur L. Ross and Ron S. Jarmin, as premature, without prejudice to renewal, by JMW, RJL, W. PAULEY, FILED. [2438569] [84] [18-2856] [Entered: 11/20/2018 03:18 PM]
11/20/18	86	LETTER, on behalf of Petitioner Ron S. Jarmin, Wilbur L. Ross, United States Census Bureau and United States Department of Commerce, advising the Court that the District Court denied federal government's request for a stay of further proceedings in light of the Supreme Court's grant of the government's petition for a writ of certiorari in In re Department of Commerce, No. 18-557 (U.S.), RECEIVED. Service date 11/20/2018 by CM/ECF. [2438959] [18-2856]—

DATE	DOCKET NUMBER	PROCEEDINGS
		[Edited 11/21/2018 by YS] [Entered: 11/20/2018 05:38 PM]
11/21/18	90	LETTER, on behalf of Respondent City and County of San Francisco, California, City of Central Falls, City of Chicago, Illinois, City of Columbus, City of New York, City of Philadelphia, City of Pittsburgh, City of Providence, City of Seattle, Washington, Commonwealth of Massachusetts, Commonwealth of Pennsylvania, Commonwealth of Virginia, County of Cameron, County of El Paso, County of Hidalgo, County of Monterey, District of Columbia, State of Colorado, State of Connecticut, State of Delaware, State of Illinois, State of Iowa, State of Maryland, State of Minnesota, State of New Jersey, State of New Mexico, State of New York, State of North Carolina, State of Oregon, State of Rhode Island, State of Vermont, State of Washington and United States Conference of Mayors, advising the Court that the request for a stay filed by Petitioners should be denied, RECEIVED. Service date 11/21/2018

DATE	DOCKET NUMBER	PROCEEDINGS
		by CM/ECF. [2439731] [18-2856] —[Edited 11/21/2018 by YS]— [Edited 11/21/2018 by YS] [Entered: 11/21/2018 11:52 AM]
11/21/18	93	ORDER, dated 11/21/2018, denying Government's motions for stay and denying as moot Government's motion for an immediate administrative stay pending the resolution of its motion to stay proceeding, by JMW, RJL, W. PAULEY, FILED. [2440177] [18-2856] [Entered: 11/21/2018 02:41 PM]

* * * * *

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Docket No. 18-2659

UNITED STATES DEPARTMENT OF COMMERCE; WILBUR L. ROSS, IN HIS OFFICIAL CAPACITY AS SECRETARY OF COMMERCE; UNITED STATES CENSUS BUREAU, AN AGENCY WITHIN THE UNITED STATES DEPARTMENT OF COMMERCE; RON S. JARMIN, IN HIS CAPACITY AS THE DIRECTOR OF THE U.S. CENSUS BUREAU, PETITIONERS

v.

NEW YORK IMMIGRATION COALITION; CASA DE MARYLAND, INC.; AMERICAN-ARAB ANTI-DISCRIMINATION COMMITTEE; ADC RESEARCH INSTITUTE; MAKE THE ROAD NEW YORK, RESPONDENTS

DOCKET ENTRIES

DATE	DOCKET NUMBER	PROCEEDINGS
9/7/18	1	ORIGINAL PROCEEDING, PETITION FOR WRIT OF MANDAMUS, on behalf of Petitioner Ron S. Jarmin, Wilbur L. Ross, United States Census Bureau and United States Department of Commerce, FILED. [2385153] [18-2659] [Entered: 09/10/2018 11:21 AM]

* * * * *

DATE	DOCKET NUMBER	PROCEEDINGS
9/10/18	9	ORDER, dated 9/10/2018, that the deposition of the Acting Assistant Attorney General for Civil Rights is stayed pending determination of the petitions. Answers to the petitions must be filed by September 17, 2018, FILED. Before DJ [2385483] [18-2659] [Entered: 09/10/2018 02:20 PM]
		* * * * *
9/17/18	28	OPPOSITION TO WRIT, [1], on behalf of Respondent, ADC Research Institute, American-Arab Anti-Discrimination Committee, CASA de Maryland, Inc., Make the Road New York and New York Immigration Coalition, FILED. Service date 09/17/2018 by CM/ECF. [2391079] [18-2659] [Entered: 09/17/2018 08:14 PM]
		* * * * *
9/21/18	41	REPLY BRIEF, on behalf of Petitioner Ron S. Jarmin, Wilbur L. Ross, United States Census Bureau and United States Department of Commerce, FILED. Service date 09/21/2018 by CM/ECF. [2394109] [18-2659] [Entered: 09/21/2018 09:32 AM]

DATE	DOCKET NUMBER	PROCEEDINGS
		* * * * *
9/25/18	50	ORDER, denying petition for writ of mandamus, by PNL, RSP, RCW, FILED. [2396989] [18-2659] [Entered: 09/25/2018 04:52 PM]
		* * * * *
10/2/18	56	ORDER, dated 10/02/2018, denying Petitioners' request for a stay of discovery in Nos. 18-2652 and 18-2659, by PNL, RSP, RCW, FILED. [2401685] [18-2659] [Entered: 10/02/2018 02:49 PM]
		* * * * *
10/5/18	58	LETTER, on behalf of Petitioners Ron S. Jarmin, Wilbur L. Ross, United States Census Bureau and United States Department of Commerce, to notify the Court of an order issued by Justice Ginsburg, RECEIVED. Service date 10/05/2018 by CM/ECF. [2405018] [18-2659]—[Edited 10/09/2018 by YL] [Entered: 10/05/2018 08:54 PM]
10/9/18	61	ORDER, dated 10/09/2018, the request for a stay of documentary discovery is denied and the deposition is temporarily stayed,

DATE	DOCKET NUMBER	PROCEEDINGS
		by PNL, RSP, RCW, FILED. [2406122] [18-2659]—[Edited 10/10/2018 by YL] [Entered: 10/10/2018 07:43 AM]
		* * * * *
10/30/18	67	ORDER, dated 10/30/2018, denying motion for a stay of pretrial and trial proceedings in two consolidated district court cases pending resolution of their forthcoming petition for a writ of mandamus or certiorari in the Supreme Court, filed by Movants United States Department of Commerce, United States Census Bureau, Wilbur L. Ross and Ron S. Jarmin, by PNL, RSP, RCW, FILED. [2421707] [18-2659] [Entered: 10/30/2018 01:15 PM]
		* * * * *
11/26/18	74	ORDER, dated 11/26/2018, denying motions in case numbers 18-2856 and 18-2857 for a stay of trial proceedings in two consolidated district court cases pending the Supreme Court's resolution of In re Department of Commerce, No. 18-557, to the extent that they relate to any of the relief movants previously sought

DATE	DOCKET NUMBER	PROCEEDINGS
		in case numbers 18-2652 and 18-2659, by PNL, RSP, RCW, FILED. [2441435] [18-2659] [Entered: 11/26/2018 03:15 PM]

* * * * *

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Docket No. 18-2652

UNITED STATES DEPARTMENT OF COMMERCE; WILBUR L. ROSS, IN HIS OFFICIAL CAPACITY AS SECRETARY OF COMMERCE; UNITED STATES CENSUS BUREAU, AN AGENCY WITHIN THE UNITED STATES DEPARTMENT OF COMMERCE; RON S. JARMIN, IN HIS CAPACITY AS THE DIRECTOR OF THE U.S. CENSUS BUREAU, PETITIONERS

v.

STATE OF NEW YORK; STATE OF CONNECTICUT; STATE OF DELAWARE; DISTRICT OF COLUMBIA; STATE OF ILLINOIS; STATE OF IOWA; STATE OF MARYLAND; COMMONWEALTH OF MASSACHUSETTS; STATE OF MINNESOTA; STATE OF NEW JERSEY; STATE OF NEW MEXICO; STATE OF NORTH CAROLINA; STATE OF OREGON; COMMONWEALTH OF PENNSYLVANIA; STATE OF RHODE ISLAND; COMMONWEALTH OF VIRGINIA; STATE OF VERMONT; STATE OF WASHINGTON; CITY OF CHICAGO, ILLINOIS; CITY OF NEW YORK; CITY OF PHILADELPHIA; CITY OF PROVIDENCE; CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA; UNITED STATES CONFERENCE OF MAYORS; CITY OF SEATTLE, WASHINGTON; CITY OF PITTSBURGH; COUNTY OF CAMERON; STATE OF COLORADO; CITY OF CENTRAL FALLS; CITY OF COLUMBUS; COUNTY OF EL PASO; COUNTY OF MONTEREY; COUNTY OF HIDALGO, RESPONDENTS

DOCKET ENTRIES

DATE	DOCKET NUMBER	PROCEEDINGS
9/7/18	1	ORIGINAL PROCEEDING, PETITION FOR WRIT OF MANDAMUS, on behalf of Petitioner Ron S. Jarmin, Wilbur L. Ross, United States Census Bureau and United States Department of Commerce, FILED. [2385086] [18-2652] [Entered: 09/10/2018 10:56 AM]
		* * * * *
9/10/18	16	ORDER, dated 9/10/2018, that the deposition of the Acting Assistant Attorney General for Civil Rights is stayed pending determination of the petitions. Answers to the petitions must be filed by September 17, 2018, FILED. Before DJ [2385480] [18-2652] [Entered: 09/10/2018 02:18 PM]
		* * * * *
9/17/18	37	BRIEF & APPENDIX, on behalf of Respondent City and County of San Francisco, California, City of Central Falls, City of Chicago, Illinois, City of Columbus, City of New York, City of Philadelphia, City of Providence, City of Seattle, Washington, Commonwealth of Massa-

DATE	DOCKET NUMBER	PROCEEDINGS
		chusetts, Commonwealth of Pennsylvania, Commonwealth of Virginia, County of Cameron, County of El Paso, County of Hidalgo, County of Monterey, District of Columbia, State of Colorado, State of Connecticut, State of Delaware, State of Illinois, State of Iowa, State of Maryland, State of Minnesota, State of New Jersey, State of New Mexico, State of New York, State of North Carolina, State of Oregon, State of Rhode Island, State of Vermont, State of Washington and United States Conference of Mayors, FILED. Service date 09/17/2018 by CM/ECF. [2391082] [18-2652] [Entered: 09/17/2018 08:37 PM]
		* * * * *
9/21/18	56	REPLY BRIEF, on behalf of Petitioner Ron S. Jarmin, United States Department of Commerce, Wilbur L. Ross and United States Census Bureau FILED. Service date 09/21/2018 by CM/ECF. [2394102] [18-2652] [Entered: 09/21/2018 09:30 AM]
		* * * * *

DATE	DOCKET NUMBER	PROCEEDINGS
9/25/18	68	ORDER, denying petition for writ of mandamus, by PNL, RSP, RCW, FILED. [2396993] [18-2652] [Entered: 09/25/2018 04:53 PM]
		* * * * *
10/2/18	74	ORDER, dated 10/2/1018, denying the request for a stay of discovery, by PNL, RSP, RCW, FILED. [2401677] [18-2652] [Entered: 10/02/2018 02:46 PM]
		* * * * *
10/5/18	76	LETTER, on behalf of Petitioner Ron S. Jarmin, Wilbur L. Ross, United States Census Bureau and United States Department of Commerce, regarding stay of depositions, RECEIVED. Service date 10/05/2018 by CM/ECF. [2405017] [18-2652] —[Edited 10/09/2018 by ML] [Entered: 10/05/2018 08:53 PM]
10/7/18	77	LETTER, on behalf of Respondent City and County of San Francisco, California, City of Central Falls, City of Chicago, Illinois, City of Columbus, City of New York, City of Philadelphia, City of Providence, City of Seattle, Washington, Common-

DATE	DOCKET NUMBER	PROCEEDINGS
		wealth of Massachusetts, Commonwealth of Pennsylvania, Commonwealth of Virginia, County of Cameron, County of El Paso, County of Hidalgo, County of Monterey, District of Columbia, State of Colorado, State of Connecticut, State of Delaware, State of Illinois, State of Iowa, State of Maryland, State of Minnesota, State of New Jersey, State of New Mexico, State of New York, State of North Carolina, State of Oregon, State of Rhode Island, State of Vermont, State of Washington and United States Conference of Mayors, regarding stay of depositions, RECEIVED. Service date 10/07/2018 by CM/ECF. [2405029] [18-2652]—[Edited 10/09/2018 by ML] [Entered: 10/07/2018 11:31 AM]
10/9/18	81	ORDER, dated 10/09/2018, the request for a stay of documentary discovery is denied and the deposition is temporarily stayed, by PNL, RSP, RCW, FILED. [2406121] [18-2652]—[Edited 10/10/2018 by YL] [Entered: 10/10/2018 07:39 AM]

DATE	DOCKET NUMBER	PROCEEDINGS
		* * * * *
10/30/18	87	ORDER, dated 10/30/2018, denying motion for a stay of pretrial and trial proceedings in two consolidated district court cases pending resolution of their forthcoming petition for a writ of mandamus or certiorari in the Supreme Court, filed by Movants United States Department of Commerce, United States Census Bureau, Wilbur L. Ross and Ron S. Jarmin, by PNL, RSP, RCW, FILED. [2421707] [18-2652] [Entered: 10/30/2018 01:13 PM]
		* * * * *
11/26/18	95	ORDER, dated 11/26/2018, denying motions in case numbers 18-2856 and 18-2857 for a stay of trial proceedings in two consolidated district court cases, pending the Supreme Court's resolution of In re Department of Commerce, No. 18-557, by PNL, RSP, RCW, FILED. [2441368] [18-2652] [Entered: 11/26/2018 02:40 PM]
11/26/18	96	ORDER, dated 11/26/2018, denying motions in case numbers

DATE	DOCKET NUMBER	PROCEEDINGS
		18-2856 and 18-2857 for a stay of trial proceedings in two consolidated district court cases, pending the Supreme Court's resolution of In re Department of Commerce, No. 18-557, by PNL, RSP, RCW, FILED. [2441389] [18-2652] [Entered: 11/26/2018 02:52 PM]

* * * * *

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

Docket No. 1:18-cv-02921-JMF

STATE OF NEW YORK; STATE OF CONNECTICUT; STATE OF DELAWARE; DISTRICT OF COLUMBIA; STATE OF ILLINOIS; STATE OF IOWA; STATE OF MARYLAND; COMMONWEALTH OF MASSACHUSETTS; STATE OF MINNESOTA; STATE OF NEW JERSEY; STATE OF NEW MEXICO; STATE OF NORTH CAROLINA; STATE OF OREGON; COMMONWEALTH OF PENNSYLVANIA; STATE OF RHODE ISLAND; COMMONWEALTH OF VIRGINIA; STATE OF VERMONT; STATE OF WASHINGTON; CITY OF CHICAGO; CITY OF NEW YORK; CITY OF PHILADELPHIA; CITY OF PROVIDENCE; CITY AND COUNTY OF SAN FRANCISCO; UNITED STATES CONFERENCE OF MAYORS; CITY OF SEATTLE; CITY OF PITTSBURG; COUNTY OF CAMERON; STATE OF COLORADO; CITY OF CENTRAL FALLS; CITY OF COLUMBUS; COUNTY OF EL PASO; COUNTY OF MONTEREY; COUNTY OF HIDALGO, PLAINTIFFS

NEW YORK IMMIGRATION COALITION; MAKE THE ROAD—NEW YORK; ARAB-AMERICAN ANTI-DISCRIMINATION COMMITTEE; ADC RESEARCH INSTITUTE; CASA DE MARYLAND, CONSOLIDATED PLAINTIFFS

v.

UNITED STATES DEPARTMENT OF COMMERCE; BUREAU OF THE CENSUS, AN AGENCY WITHIN THE UNITED STATES DEPARTMENT OF COMMERCE; WILBUR L. ROSS, JR., IN HIS OFFICIAL CAPACITY AS SECRETARY OF COMMERCE; STEVEN DILLINGHAM, IN HIS OFFICIAL CAPACITY AS DIRECTOR OF THE CENSUS, DEFENDANTS

DOCKET ENTRIES

DATE	DOCKET NUMBER	PROCEEDINGS
		* * * * *
4/4/18	10	COMPLAINT against Bureau of the Census, Ron S. Jarmin, Wilbur L. Ross, Jr., United States Department of Commerce. Document filed by State of New Mexico, City of Philadelphia, State of Maryland, State of Vermont, State Of Connecticut, City of Providence, State Of New York, State of Washington, State of Oregon, Commonwealth of Virginia, City and County of San Francisco, City of Seattle, State of Iowa, State of Delaware, State of Minnesota, State of North Carolina, State of Rhode Island, City Of New York, Commonwealth of Pennsylvania, Commonwealth of Massachusetts, District of Columbia, United States Conference of Mayors, City of Chicago, State of New Jersey, State of Illinois. (Rosado, Lourdes) (Entered: 04/04/2018)
		* * * * *

DATE	DOCKET NUMBER	PROCEEDINGS
4/30/18	85	FIRST AMENDED COMPLAINT amending 10 Complaint,, against Bureau of the Census, Ron S. Jarmin, Wilbur L. Ross, Jr., United States Department of Commerce. Document filed by City of Philadelphia, State of Maryland, State of Vermont, State Of Connecticut, State Of New York, State of Washington, Commonwealth of Virginia, City of Seattle, City Of New York, Commonwealth of Pennsylvania, United States Conference of Mayors, State of New Jersey, State of New Mexico, City of Providence, City and County of San Francisco, State of Oregon, State of Iowa, State of Delaware, State of Minnesota, State of North Carolina, State of Rhode Island, Commonwealth of Massachusetts, District of Columbia, City of Chicago, State of Illinois, City of Pittsburgh, County of Cameron, State of Colorado, City of Central Falls, City of Columbus, County of El Paso, County of Monterey, County of Hidalgo. Related document: 10 Complaint,,.

DATE	DOCKET NUMBER	PROCEEDINGS
		(Saini, Ajay) (Entered: 04/30/2018)
		* * * * *
5/18/18	150	TRANSCRIPT of Proceedings re: CONFERENCE held on 5/9/2018 before Judge Jesse M. Furman. Court Reporter/ Transcriber: Raquel Robles, (212) 805-0300. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 6/8/2018. Redacted Transcript Deadline set for 6/18/2018. Release of Transcript Restriction set for 8/16/2018. (McGuirk, Kelly) (Entered: 05/18/2018)
		* * * * *
5/25/18	154	MOTION to Dismiss. Document filed by Bureau of the Census, Ron S. Jarmin, Wilbur L. Ross, Jr., United States Department of Commerce. (Bailey, Kate) (Entered: 05/25/2018)

DATE	DOCKET NUMBER	PROCEEDINGS
5/25/18	155	MEMORANDUM OF LAW in Support re: 154 MOTION to Dismiss . . Document filed by Bureau of the Census, Ron S. Jarmin, Wilbur L. Ross, Jr., United States Department of Commerce. (Bailey, Kate) (Entered: 05/25/2018)
		* * * * *
6/8/18	173	NOTICE of Filing Administrative Record Certification and Index. Document filed by Bureau of the Census, Ron S. Jarmin, Wilbur L. Ross, Jr., United States Department of Commerce. (Attachments: #1 Certification of Administrative Record, #2 Administrative Record Index) (Ehrlich, Stephen) (Entered: 06/08/2018)
		* * * * *
6/13/18	182	MEMORANDUM OF LAW in Opposition re: 154 MOTION to Dismiss . . Document filed by City Of New York, City and County of San Francisco, City of Central Falls, City of Chicago, City of Columbus, City of Philadelphia, City of Pittsburgh, City of Providence, City of Seat-

DATE	DOCKET NUMBER	PROCEEDINGS
		tle, Commonwealth of Massachusetts, Commonwealth of Pennsylvania, Commonwealth of Virginia, County of Cameron, County of El Paso, County of Hidalgo, County of Monterey, District of Columbia, State Of Connecticut, State Of New York, State of Colorado, State of Delaware, State of Illinois, State of Iowa, State of Maryland, State of Minnesota, State of New Jersey, State of New Mexico, State of North Carolina, State of Oregon, State of Rhode Island, State of Vermont, State of Washington, United States Conference of Mayors. (Goldstein, Elena) (Entered: 06/13/2018)
		* * * * *
6/22/18	190	REPLY MEMORANDUM OF LAW in Support re: 154 MOTION to Dismiss . . Document filed by Bureau of the Census, Ron S. Jarmin, Wilbur L. Ross, Jr., United States Department of Commerce. (Ehrlich, Stephen) (Entered: 06/22/2018)
		* * * * *

DATE	DOCKET NUMBER	PROCEEDINGS
6/26/18	193	LETTER addressed to Judge Jesse M. Furman from Plaintiffs State of New York et al. dated 6/26/2018 re: discovery outside of the administrative record. Document filed by State Of New York. (Attachments: #1 Exhibit 1, #2 Exhibit 2) (Colangelo, Matthew) (Entered: 06/26/2018)
6/26/18	194	LETTER addressed to Judge Jesse M. Furman from Dominika Tarczynska dated June 26, 2018 re: Opposing Discovery. Document filed by Bureau of the Census, Ron S. Jarmin, Wilbur L. Ross, Jr., United States Department of Commerce. (Attachments: #1 Exhibit A (Tarczynska, Dominika) (Entered: 06/26/2018)
		* * * * *
6/27/18	196	LETTER addressed to Judge Jesse M. Furman from Matthew Colangelo dated June 27, 2018 re: supplemental authority regarding discovery. Document filed by State Of New York. (Attachments: #1 Exhibit Order in Sierra Club v. Zinke, No. 17-cv-07187-WHO (N.D.

DATE	DOCKET NUMBER	PROCEEDINGS
		Cal. June 26, 2018)) (Colangelo, Matthew) (Entered: 06/27/2018)
		* * * * *
7/3/18		Minute Entry for proceedings held before Judge Jesse M. Furman: Oral Argument held on 7/3/2018 re: (193 in 1:18-cv-02921-JMF) Letter, (154 in 1:18-cv-02921-JMF) MOTION to Dismiss, (194 in 1:18-cv-02921-JMF) Letter. Court reporter present.—See transcript. (ab) (Entered: 07/03/2018)
7/5/18	199	ORDER: For the reasons stated on the record at the conference held on July 3, 2018, Plaintiffs request for an order directing Defendants to complete the administrative record and authorizing extra-record discovery is GRANTED. As discussed, the following deadlines shall apply unless and until the Court says otherwise: Fact Discovery due by 10/12/2018. Expert Discovery due by 10/12/2018. Status Conference set for 9/14/2018 at 02:00 PM in Courtroom 1105, 40 Centre Street, New York, NY 10007 before Judge Jesse M. Furman.

DATE	DOCKET NUMBER	PROCEEDINGS
		(Signed by Judge Jesse M. Furman on 7/5/2018) (ne) (Entered: 07/05/2018)
		* * * * *
7/20/18	205	TRANSCRIPT of Proceedings re: CORRECTED TRANSCRIPT held on 7/3/2018 before Judge Jesse M. Furman. Court Reporter/Transcriber: Karen Gorlaski, (212) 805-0300. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 8/10/2018. Redacted Transcript Deadline set for 8/20/2018. Release of Transcript Restriction set for 10/18/2018. (McGuirk, Kelly) (Entered: 07/20/2018)
		* * * * *
7/25/18	214	SECOND AMENDED COMPLAINT amending 10 Complaint,, 85 Amended Complaint,,, against Bureau of the Census, Ron S. Jarmin, Wilbur L. Ross,

DATE	DOCKET NUMBER	PROCEEDINGS
		Jr., United States Department of Commerce. Document filed by City of Central Falls, State of Washington, Commonwealth of Virginia, City of Columbus, City Of New York, State of New Mexico, State of Rhode Island, State Of Connecticut, State of Vermont, City of Phoenix, Commonwealth of Pennsylvania, United States Conference of Mayors, County of Monterey, City and County of San Francisco, Commonwealth of Massachusetts, State of Illinois, City of Philadelphia, State of Maryland, State of New Jersey, County of Cameron, State of North Carolina, County of Hidalgo, State of Colorado, City of Chicago, County of El Paso, State Of New York, City of Seattle, City of Pittsburgh, City of Providence, State of Oregon, State of Iowa, State of Delaware, State of Minnesota. District of Columbia. Related document: 10 Complaint,, 85 Amended Complaint,,,. (Goldstein, Elena) (Entered: 07/25/2018)

DATE	DOCKET NUMBER	PROCEEDINGS
7/26/18	215	OPINION AND ORDER re: (38 in 1:18-cv-05025-JMF) MOTION to Dismiss. filed by Wilbur L. Ross, United States Department of Commerce, Bureau of the Census, Ron S. Jarmin, (154 in 1:18-cv-02921-JMF) MOTION to Dismiss. filed by Wilbur L. Ross, Jr., United States Department of Commerce, Bureau of the Census, Ron S. Jarmin. Defendants' motions to dismiss are GRANTED in part and DENIED in part. First, the Court rejects Defendants' attempts to insulate Secretary Ross's decision to reinstate a question about citizenship on the 2020 census from judicial review. Granted, courts must give proper deference to the Secretary, but that does not mean that they lack authority to entertain claims like those pressed here. To the contrary, courts have a critical role to play in reviewing the conduct of the political branches to ensure that the census is conducted in a manner consistent with the Constitution and applicable law. Second, the Court concludes

DATE	DOCKET NUMBER	PROCEEDINGS
		that Plaintiffs' claims under the Enumeration Clause which turn on whether Secretary Ross had the power to add a question about citizenship to the census and not on whether he exercised that power for impermissible reasons must be dismissed. Third, assuming the truth of their allegations and drawing all reasonable inferences in their favor, the Court finds that NGO Plaintiffs plausibly allege that Secretary Ross's decision to reinstate the citizenship question was motivated at least in part by discriminatory animus and will result in a discriminatory effect. Accordingly, their equal protection claim under the Due Process Clause (and Plaintiffs' APA claims, which Defendants did not substantively challenge) may proceed. None of that is to say that Plaintiffs will ultimately prevail in their challenge to Secretary Ross's decision to reinstate the citizenship question on the 2020 census. As noted, the Enumeration Clause and the Census Act grant him broad authority over the census, and

DATE	DOCKET NUMBER	PROCEEDINGS
		Plaintiffs may not ultimately be able to prove that he exercised that authority in an unlawful manner. Put another way, the question at this stage of the proceedings is not whether the evidence supports Plaintiffs' claims, but rather whether Plaintiffs may proceed with discovery and, ultimately, to summary judgment or trial on their claims. The Court concludes that they may as to their claims under the APA and the Due Process Clause and, to that extent, Defendants' motions are denied. Per the Court's Order entered on July 5, 2018 (Docket No. 199), the deadline for the completion of fact and expert discovery in these cases is October 12, 2018, and the parties shall appear for a pretrial conference on September 14, 2018. The parties are reminded that, no later than the Thursday prior to the pretrial conference, they are to file on ECF a joint letter addressing certain issues. (See id. at 2-3). In that letter, the parties should also give their views with respect to whether the case should

DATE	DOCKET NUMBER	PROCEEDINGS
		resolved by way of summary judgment or trial and whether the two cases should be consolidated for either of those purposes. The Clerk of Court is directed to terminate 18-CV-2921, Docket No. 154; and 18-CV-5025, Docket No. 38. SO ORDERED. (Signed by Judge Jesse M. Furman on 7/26/18) (yv) (Entered: 07/26/2018)
		* * * * *
8/10/18	236	LETTER MOTION to Compel Acting Assistant Attorney General for Civil Rights John Gore to appear *for deposition* addressed to Judge Jesse M. Furman from Matthew Colangelo dated August 10, 2018. Document filed by State Of New York. (Attachments: #1 Exhibit 1, #2 Exhibit 2, #3 Exhibit 3, #4 Exhibit 4, #5 Exhibit 5) (Colangelo, Matthew) (Entered: 08/10/2018)
		* * * * *
8/15/18	255	LETTER RESPONSE in opposition to Motion addressed to Judge Jesse M. Furman from Kate Bailey dated 08/15/2018 re:

DATE	DOCKET NUMBER	PROCEEDINGS
		236 LETTER MOTION to Compel Acting Assistant Attorney General for Civil Rights John Gore to appear *for deposition* addressed to Judge Jesse M. Furman from Matthew Colangelo dated August 10, 2018. . Document filed by Bureau of the Census, Ron S. Jarmin, Wilbur L. Ross, Jr., United States Department of Commerce. (Bailey, Kate) (Entered: 08/15/2018)
		* * * * *
8/17/18	261	ORDER granting 236 Letter Motion to Compel, denying 237 Letter Motion to Compel. For the foregoing reasons, Plaintiffs' letter motion of August 10th is GRANTED to the extent it seeks an order compelling Defendants to make AAG Gore available for a deposition, and their letter motion of August 13th is DENIED to the extent it seeks an order compelling Defendant to produce "materials erroneously withheld." The Clerk of Court is directed to terminate 18-CV-2921, Docket Nos. 236 and 237, and 18-CV-5025,

DATE	DOCKET NUMBER	PROCEEDINGS
		Docket Nos. 81 and 82. SO ORDERED. (Signed by Judge Jesse M. Furman on 8/17/2018) (ne) (Entered: 08/17/2018)
		* * * * *
8/31/18	292	LETTER MOTION to Stay *Discovery Pending Petition for Writ of Mandamus* addressed to Judge Jesse M. Furman from Carol Federighi dated August 31, 2018. Document filed by Bureau of the Census, Ron S. Jarmin, Wilbur L. Ross, Jr., United States Department of Commerce. (Federighi, Carol) (Entered: 08/31/2018)
		* * * * *
8/31/18	294	ANSWER to 214 Amended Complaint,,,,,. Document filed by Bureau of the Census, Ron S. Jarmin, Wilbur L. Ross, Jr., United States Department of Commerce. (Federighi, Carol) (Entered: 08/31/2018)
		* * * * *
9/4/18	297	ORDER with respect to 292 Letter Motion to Stay Discovery Pending Petition for Writ of Mandamus. To the extent that

DATE	DOCKET NUMBER	PROCEEDINGS
		Defendants seek "an administrative stay" (that is, a stay pending a decision on Defendants' motion for a stay), the request is DENIED. Plaintiffs in 18-CV-2921 and 18-CV-5025 shall file a single letter response to Defendants' motion by Thursday, September 6, 2018; Defendants shall notify the Court by Friday, September 7, 2018, at noon, if they wish to file a reply and, if so, shall file the reply by Monday, September 10, 2018. (HEREBY ORDERED by Judge Jesse M. Furman) (Text Only Order) (Furman, Jesse) (Entered: 09/04/2018)
		* * * * *
9/6/18	304	LETTER RESPONSE in Opposition to Motion addressed to Judge Jesse M. Furman from Matthew Colangelo dated September 6, 2018 re: 292 LETTER MOTION to Stay *Discovery Pending Petition for Writ of Mandamus* addressed to Judge Jesse M. Furman from Carol Federighi dated August 31, 2018. . Document filed by State Of New York. (Attach-

DATE	DOCKET NUMBER	PROCEEDINGS
		ments: #1 Exhibit 1, #2 Exhibit 2, #3 Exhibit 3, #4 Exhibit 4, #5 Exhibit 5, #6 Exhibit 6, #7 Exhibit 7) (Colangelo, Matthew) (Entered: 09/06/2018)
		* * * * *
9/7/18	306	ORDER re: 292 LETTER MOTION to Stay Discovery Pending Petition for Writ of Mandamus filed by Wilbur L. Ross, Jr., United States Department of Commerce, Bureau of the Census, Ron S. Jarmin. Because the deposition of John Gore is apparently scheduled for September 12, 2018 (a fact that was conspicuously omitted from the stay application that Defendants filed on the eve of Labor Day weekend) (Docket No. 304, at 3), and the Court is unavailable Monday and Tuesday on account of a Jewish holiday, Defendants shall file any reply to Plaintiffs' opposition by TODAY at noon—not by Monday, as the Court had indicated in its Order of September 4, 2018. SO ORDERED. (Signed by Judge Jesse M. Furman on 9/7/2018)

DATE	DOCKET NUMBER	PROCEEDINGS
		(Text Only Order) (Furman, Jesse) (Entered: 09/07/2018)
		* * * * *
9/7/18	308	OPINION AND ORDER re: (292 in 1:18-cv-02921-JMF) LETTER MOTION to Stay *Discovery Pending Petition for Writ of Mandamus* addressed to Judge Jesse M. Furman from Carol Federighi dated August 31, 2018. filed by Wilbur L. Ross, Jr., United States Department of Commerce, Bureau of the Census, Ron S. Jarmin, (116 in 1:18-cv-05025-JMF) LETTER MOTION to Stay *Discovery Pending Petition for Writ of Mandamus* addressed to Judge Jesse M. Furman from Carol Federighi dated August 31, 2018. filed by Wilbur L. Ross, United States Department of Commerce, Bureau of the Census, Ron S. Jarmin. For the foregoing reasons, Defendants' motion for a stay of discovery is DENIED in its entirety. The Clerk of Court is directed to terminate 18-CV-2921, Docket No. 292 and 18-CV-5025, Docket No. 116. (Signed by

DATE	DOCKET NUMBER	PROCEEDINGS
		Judge Jesse M. Furman on 9/7/2018) (tro) (Entered: 09/07/2018)
		* * * * *
9/10/18	314	LETTER MOTION for Discovery *requesting leave to depose Secretary of Commerce Wilbur L. Ross, Jr.* addressed to Judge Jesse M. Furman from Matthew Colangelo dated September 10, 2018. Document filed by State Of New York. (Attachments: #1 Exhibit 1 (AR 2521, AR 2561, AR 763), #2 Exhibit 2 (AR 3699, AR 2482, AR 763), #3 Exhibit 3 (Defs. response to interrogatories), #4 Exhibit 4 (AR 2636), #5 Exhibit 5 (Defs. supplemental response to interrogatories), #6 Exhibit 6 (Teramoto Dep. Tr. (excerpts)), #7 Exhibit 7 (Kelley Dep. Tr. (excerpts)), #8 Exhibit 8 (Comstock Dep. Tr. (excerpts)), #9 Exhibit 9 (Email from Defs. counsel dated 9/7/18)) (Colangelo, Matthew) (Entered: 09/10/2018)
		* * * * *
9/13/18	320	LETTER RESPONSE in Opposition to Motion addressed

DATE	DOCKET NUMBER	PROCEEDINGS
		to Judge Jesse M. Furman from Carol Federighi dated 09/13/2018 re: 314 LETTER MOTION for Discovery *requesting leave to depose Secretary of Commerce Wilbur L. Ross, Jr.* addressed to Judge Jesse M. Furman from Matthew Colangelo dated September 10, 2018. . Document filed by Bureau of the Census, Ron S. Jarmin, Wilbur L. Ross, Jr., United States Department of Commerce. (Attachments: #1 Exhibit 1: In re United States (Vilsack) Order, #2 Exhibit 2: Pls' RFAs to Commerce) (Federighi, Carol) (Entered: 09/13/2018)
		* * * * *
9/17/18	325	LETTER RESPONSE in Support of Motion addressed to Judge Jesse M. Furman from Matthew Colangelo dated September 17, 2018 re: 314 LETTER MOTION for Discovery *requesting leave to depose Secretary of Commerce Wilbur L. Ross, Jr.* addressed to Judge Jesse M. Furman from Matthew Colangelo dated September 10, 2018. . Document filed by

DATE	DOCKET NUMBER	PROCEEDINGS
		State Of New York. (Attachments: #1 Exhibit 1 (AR 12756), #2 Exhibit 2 (Abowd 30(b)(6) dep. tr. (excerpt)), #3 Exhibit 3 (AR 12476)) (Colangelo, Matthew) (Entered: 09/17/2018)
		* * * * *
9/18/18	333	LETTER addressed to Judge Jesse M. Furman from Kate Bailey dated 09/18/2018 re: Appropriateness of Summary Judgment to Resolve All Claims. Document filed by Wilbur L. Ross, Jr.. (Bailey, Kate) (Entered: 09/18/2018)
		* * * * *
9/20/18	341	LETTER addressed to Judge Jesse M. Furman from Elena Goldstein dated September 20, 2018 re: Defendants' request for summary judgment in lieu of trial. Document filed by State Of New York. (Attachments: #1 Exhibit 1 (select documents from the Administrative Record)) (Goldstein, Elena) (Entered: 09/20/2018)
		* * * * *

DATE	DOCKET NUMBER	PROCEEDINGS
9/21/18	345	**Vacated as moot as per Judge's Order dated 1/15/2019, Doc. #574 in case no. 18cv2921** OPINION AND ORDER re: 314 LETTER MOTION for Discovery *requesting leave to depose Secretary of Commerce Wilbur L. Ross, Jr.* addressed to Judge Jesse M. Furman from Matthew Colangelo dated September 10, 2018 filed by State Of New York. In short, the public interest weighs heavily in favor of granting Plaintiffs' application for an order requiring Secretary Ross to sit for a deposition. That said, mindful of the burdens that a deposition will impose on Secretary Ross and the scope of the existing record (including the fact that Secretary Ross has already testified before Congress about his decision to add the citizenship question), the Court limits the deposition to four hours in length, see, e.g., Arista Records LLC v. Lime Grp. LLC, No. 06-CV-5936 (GEL), 2008 WL 1752254, at *1 (S.D.N.Y. Apr. 16, 2008) ("A district court has broad discretion to set the length of depositions appropriate to the

DATE	DOCKET NUMBER	PROCEEDINGS
		circumstances of the case."), and mandates that it be conducted at the Department of Commerce or another location convenient for Secretary Ross. The Court, however, rejects Defendants' contention that the deposition "should be held only after all other discovery is concluded," (Defs.' Letter 3), in no small part because the smaller the window, the harder it will undoubtedly be to schedule the deposition. Finally, the Court declines Defendants' request to "stay its order for 14 days or until Defendants' anticipated mandamus petition is resolved, whichever is later." (Id.). Putting aside the fact that Defendants do not even attempt to establish that the circumstances warranting a stay are present, see New York, 2018 WL 4279467, at *1 (discussing the standards for a stay pending a mandamus petition), the October 12, 2018 discovery deadline is rapidly approaching and Defendants themselves have acknowledged that time is of the essence, see id. at *3. Moreo-

DATE	DOCKET NUMBER	PROCEEDINGS
		ver, the deposition will not take place immediately; instead, Plaintiffs will need to notice it and counsel will presumably need to confer about scheduling and other logistics. In the meantime, Defendants will have ample time to seek mandamus review and a stay pending such review from the Circuit. The Clerk of Court is directed to terminate Docket No. 314. SO ORDERED. (Signed by Judge Jesse M. Furman on 9/21/2018) (ne) Modified on 1/15/2019 (tro). (Entered: 09/21/2018)
		* * * * *
9/21/18	347	ANSWER to 210 Amended Complaint,,,,,. Document filed by Bureau of the Census, Ron S. Jarmin, Wilbur L. Ross, Jr., United States Department of Commerce. (Tomlinson, Martin) (Entered: 09/21/2018)
		* * * * *
9/28/18	359	LETTER MOTION to Stay *Discovery Pending Supreme Court Review* addressed to Judge Jesse M. Furman from Carol Federighi dated 09/28/2018.

DATE	DOCKET NUMBER	PROCEEDINGS
		Document filed by United States Department of Commerce. (Federighi, Carol) (Entered: 09/28/2018)
		* * * * *
9/29/18	360	LETTER RESPONSE in Opposition to Motion addressed to Judge Jesse M. Furman from Matthew Colangelo dated September 29, 2018 re: 359 LETTER MOTION to Stay *Discovery Pending Supreme Court Review* addressed to Judge Jesse M. Furman from Carol Federighi dated 09/28/2018. . Document filed by State Of New York. (Attachments: #1 Exhibit 1 (Plaintiffs' letter of 9/25/18 regarding discovery), #2 Exhibit 2 (Defendants' emergency motion for immediate administrative stay), #3 Exhibit 3 (CA2 order of 9/28/18 regarding administrative stay motion)) (Colangelo, Matthew) (Entered: 09/29/2018)
		* * * * *
9/30/18	362	MEMORANDUM OPINION AND ORDER re: 359 LETTER MOTION to Stay *Discov-*

DATE	DOCKET NUMBER	PROCEEDINGS
		ery Pending Supreme Court Review addressed to Judge Jesse M. Furman from Carol Federighi dated 09/28/2018 filed by United States Department of Commerce. Defendants' latest application for stay of discovery in these cases, including the depositions of Secretary Ross and Assistant Attorney General Gore, is DENIED. The application—which does not even bother to recite the requirements for a stay, let alone attempt to show that those requirements have been met—is hard to understand as anything more than a pro forma box-checking exercise for purposes of seeking relief in the Supreme Court. This Court has already rejected Defendants' requests for stays of discovery altogether, of the Assistant Attorney General Gore's deposition, and of Secretary Ross's deposition, (see Docket No. 308; Docket No. 345, at 12), and it adheres to its views on the merits of those requests. To the extent that Defendants request a stay of all discovery, their application is particularly frivolous

DATE	DOCKET NUMBER	PROCEEDINGS
		—if not outrageous—given their inexplicable (and still unexplained) two-month delay in seeking that relief, see *New York v. U.S. Dept of Commerce*, No. 18-CV-2921 (JMF), 2018 WL 4279467, at * 2 (S.D.N.Y. Sept. 7, 2018), and their representation to the Second Circuit only last week that they were not actually seeking a stay of all discovery, (see Docket No. 360, at 1-2). If anything, the notion that Defendants will suffer irreparable harm absent a stay of all discovery is even more far-fetched now than it was when first requested on August 31, 2018, as the parties are nearly three months into discovery and only days away from completing it. The Court will not permit (and doubts that either the Second Circuit or the Supreme Court would permit) Defendants to use their arguably timely challenges to the Orders authorizing depositions of Assistant Attorney General Gore and Secretary Ross to bootstrap an untimely—and almost moot —challenge to the July 3rd Order authorizing extra-record dis-

DATE	DOCKET NUMBER	PROCEEDINGS
		covery, particularly when only nine business days remain before the close of such discovery and much apparently remains to be done. (See Docket No. [360-1]). Unless and until this Court's Orders are stayed by a higher court, Defendants shall comply with their discovery obligations completely *and* expeditiously; the Court will not look kindly on any delay, and—absent relief from a higher court—will not extend discovery beyond October 12th given the November 5th trial date. As for the deposition of Secretary Ross, which has been administratively stayed by the Court of Appeals (see Docket No. [360-3]), the Court takes Defendants at their word when they say that the deposition "can be conducted expeditiously should [the Second Circuit] deny the government's petition," (Pets. for Mandamus at 32, Nos. 18-2856 & 18-2857 (2d Cir. Sept. 27, 2018)). In light of that representation, and the discovery deadline of October 12, 2018, Defendants should endeavor to ensure that Secretary

DATE	DOCKET NUMBER	PROCEEDINGS
		Ross remains available for a deposition on October 11, 2018, so that the deposition may take place before discovery closes in the event that the administrative stay is lifted by that date and Defendants' efforts to obtain permanent relief fail. For the foregoing reasons, Defendants' latest application for stay of discovery in these cases, "including" the depositions of Secretary Ross and Assistant Attorney General Gore, is DENIED. The Clerk of Court is directed to terminate Docket No. 359. (Signed by Judge Jesse M. Furman on 9/30/2018) Filed In Associated Cases: 1:18-cv-02921-JMF, 1:18-cv-05025-JMF(ab) Modified on 9/30/2018 (ab). (Entered: 09/30/2018)
9/30/18	363	ORDER regarding 333 and 341 Parties' Letters concerning the appropriateness of summary judgment. Upon review of the parties' letters, the Court remains firmly convinced that a trial will be necessary to resolve the claims in this case. First, the cases cited by Plaintiffs

DATE	DOCKET NUMBER	PROCEEDINGS
		make clear that APA claims may properly be heard at trial where, as appears to be the case here, there is a need to make credibility determinations in connection with allegations of pretext or an improper government purpose, see, e.g., Buffalo Cent. Terminal v. U.S., 886 F. Supp. 1031, 1037, 1047-48 (W.D.N.Y. 1995), or where there are disputes involving competing experts, see, e.g., Cuomo v. Baldrige, 674 F. Supp. 1089, 1093 (S.D.N.Y. 1987). (See Docket No. 341, at 1-4). Second, it seems quite clear from the existing record that there will be genuine disputes of material fact precluding entry of summary judgment. See Fed. R. Civ. P. 56(a). Given the foregoing, the Court believes that it would be far more efficient—and more consistent with Defendants' own interest in a speedy resolution of the claims in this case—to proceed directly to trial and that Defendants would be far better off devoting their time and resources to preparing their pre-trial materials than to preparing summary judgment pa-

DATE	DOCKET NUMBER	PROCEEDINGS
		pers. That said, the Court will not bar Defendants from making a motion for summary judgment if they wish to spend their time and resources preparing one. Any such motion shall be filed by October 19, 2018; any opposition to such a motion shall be filed by October 31, 2018; and no reply shall be filed without prior leave of Court. All other dates and deadlines—including the November 5th trial date—remain in effect. (See Docket No. 323). SO ORDERED. (Signed by Judge Jesse M. Furman on 9/30/2018) (Text Only Order) (Furman, Jesse) (Entered: 09/30/2018)
		* * * * *
10/10/18	374	NOTICE of Of Stay. Document filed by Bureau of the Census (Bailey, Kate) (Entered: 10/10/2018)
		* * * * *
10/23/18	397	LETTER MOTION to Stay *Trial and Pretrial Events* addressed to Judge Jesse M. Furman from Martin M Tomlinson dated 10/23/2018. Document

DATE	DOCKET NUMBER	PROCEEDINGS
		filed by Bureau of the Census Ron S. Jarmin, Wilbur L. Ross, Jr., United States Department of Commerce. (Attachments: #1 Exhibit Supreme Court Order Granting in Part and Denying in Part Application for Stay) (Tomlinson, Martin) (Entered: 10/23/2018)
		* * * * *
10/26/18	405	OPINION AND ORDER re: 397 LETTER MOTION to Stay *Trial and Pretrial Events*: For the reasons set forth in this Opinion, Defendants' motion for a stay of trial and associated deadlines is DENIED. The Clerk of Court is directed to terminate Docket No. 397. (Signed by Judge Jesse M. Furman on 10/26/2018) (ab) (Entered: 10/26/2018)
		* * * * *
10/26/18	410	PRETRIAL MEMORANDUM. Document filed by ADC Research Institute, Arab-American Anti-Discrimination Committee, CASA de Maryland, City Of New York, City and County of San Francisco, City of Central Falls, City

DATE	DOCKET NUMBER	PROCEEDINGS
		of Chicago, City of Columbus, City of Philadelphia, City of Phoenix, City of Pittsburgh, City of Providence, City of Seattle, Commonwealth of Massachusetts, Commonwealth of Pennsylvania, Commonwealth of Virginia, County of Cameron, County of El Paso, County of Hidalgo, County of Monterey, District of Columbia, Make the Road—New York, New York Immigration Coalition, State Of Connecticut, State Of New York, State of Colorado, State of Delaware, State of Illinois, State of Iowa, State of Maryland, State of Minnesota, State of New Jersey, State of New Mexico, State of North Carolina, State of Oregon, State of Rhode Island, State of Vermont, State of Washington, United States Conference of Mayors. (Colangelo Matthew) (Entered: 10/26/2018)
		* * * * *
10/26/18	412	PRETRIAL MEMORANDUM. Document filed by Bureau of the Census, Ron S. Jarmin, Wilbur L. Ross, Jr., United States Department of Commerce.

DATE	DOCKET NUMBER	PROCEEDINGS
		(Bailey, Kate) (Entered: 10/26/2018)
		* * * * *
10/31/18	455	TRIAL BRIEF *Plaintiffs' Pretrial Reply Memorandum of Law.* Document filed by State Of New York. (Colangelo, Matthew) (Entered: 10/31/2018)
10/31/18	456	TRIAL BRIEF *Defendants' Pretrial Reply Memorandum of Law.* Document filed by Bureau of the Census, Ron S. Jarmin, Wilbur L. Ross, Jr., United States Department of Commerce. (Ehrlich, Stephen) (Entered: 10/31/2018)
		* * * * *
11/1/18	461	JOINT PRETRIAL ORDER: This case has been set for a two week bench trial to begin on November 5, 2018. The Court will not be in session on November 8 or 12, 2018. The parties believe that the trial can be completed in the allotted time. At least one party has not consented to trial by magistrate. The Court enters this Joint Pretrial Order as modified on the record at the Final Pretrial

DATE	DOCKET NUMBER	PROCEEDINGS
		Conference held November 1, 2018. SO ORDERED. (Signed by Judge Jesse M. Furman on 11/1/2018) (ne) (Entered: 11/01/2018)
		* * * * *
11/5/18	485	AMENDED OPINION AND ORDER. Defendants' motion for a stay of trial and associated deadlines is DENIED. The Clerk of Court is directed to terminate Docket No. 397. SO ORDERED. (Signed by Judge Jesse M. Furman (Amended) on 11/5/2018) (rjm) (Entered: 11/05/2018)
		* * * * *
11/5/18		Minute Entry for proceedings held before Judge Jesse M. Furman: Bench Trial begun on 11/5/2018. See transcript.— Trial continued to 11/6/2018 at 9:00 am. (ab) (Entered: 11/06/2018)
		* * * * *
11/6/18		Minute Entry for proceedings held before Judge Jesse M. Furman: Bench Trial held on 11/6/2018. See transcript.— Trial continued to 11/7/2018 at

DATE	DOCKET NUMBER	PROCEEDINGS
		9:00 am (ab) (Entered: 11/09/2018)
		* * * * *
11/7/18		Minute Entry for proceedings held before Judge Jesse M. Furman: Bench Trial held on 11/7/2018. See transcript.—Trial continued to 11/9/2018 at 9:00 am (ab) (Entered: 11/09/2018)
		* * * * *
11/9/18		Minute Entry for proceedings held before Judge Jesse M. Furman: Bench Trial held on 11/9/2018. See transcript.—Trial continued to 11/13/2018 at 9:00 am (ab) (Entered: 11/09/2018)
		* * * * *
11/13/18		Minute Entry for proceedings held before Judge Jesse M. Furman: Bench Trial held on 11/13/2018. See transcript.—Trial continued to 11/14/2018 at 9:00 am (ab) (Entered: 11/30/2018)
11/14/18		*** * * NOTICE TO ATTORNEY TO RE-FILE DOCUMENT—EVENT TYPE ERROR. Notice to Attorney Matthew Colangelo to RE-FILE Document 528 SECOND MOTION to Admit Trial**

DATE	DOCKET NUMBER	PROCEEDINGS
		Exhibits into Evidence. Use the event type Letter found under the event list Other Documents. (db) (Entered: 11/14/2018)
		* * * * *
11/14/18		Minute Entry for proceedings held before Judge Jesse M. Furman: Bench Trial held on 11/14/2018. See transcript.—Trial continued to 11/15/2018 at 9:00 am (ab) (Entered: 11/30/2018)
		* * * * *
11/15/18		Minute Entry for proceedings held before Judge Jesse M. Furman: Bench Trial held on 11/15/2018. See transcript.—Trial continued to 11/27/2018 at 9:30 am. (ab) (Entered: 11/30/2018)
		* * * * *
11/18/18	540	LETTER MOTION to Stay *Further Proceedings* addressed to Judge Jesse M. Furman from Joshua E. Gardner dated November 18, 2018. Document filed by Bureau of the Census, Ron S. Jarmin, Wilbur L. Ross, Jr., United States Department of Commerce. (Attachments: #1 Exhibit grant of certiorari)

DATE	DOCKET NUMBER	PROCEEDINGS
		(Gardner, Joshua) (Entered: 11/18/2018)
		* * * * *
11/20/18	543	LETTER RESPONSE in Opposition to Motion addressed to Judge Jesse M. Furman from Matthew Colangelo dated November 20, 2018 re: 540 LETTER MOTION to Stay *Further Proceedings* addressed to Judge Jesse M. Furman from Joshua E. Gardner dated November 18 2018. . Document filed by State Of New York. (Colangelo, Matthew) (Entered: 11/20/2018)
11/20/18	544	MEMORANDUM OPINION AND ORDER denying 540 Letter Motion to Stay: For the reasons set forth within, Defendants' latest motion to halt these proceedings is DENIED. Barring a stay from the Second Circuit or the Supreme Court, Defendants shall file their post-trial briefing by the Court-ordered deadline of tomorrow and appear for oral argument as directed on November 27, 2018. The Clerk of Court is directed to terminate Docket No. 540.

DATE	DOCKET NUMBER	PROCEEDINGS
		(Signed by Judge Jesse M. Furman on 11/20/2018) (ab) (Entered: 11/20/2018)
11/21/18	545	PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW. Document filed by State Of New York. (Attachments: #1 Supplement Plaintiffs' Joint Proposed Post-Trial Conclusions of Law) (Colangelo, Matthew) (Entered: 11/21/2018)
11/21/18	546	PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW. Document filed by Bureau of the Census, Ron S. Jarmin, Wilbur L. Ross, Jr., United States Department of Commerce. (Federighi, Carol) (Entered: 11/21/2018)
		* * * * *
11/27/18		Minute Entry for proceedings held before Judge Jesse M. Furman: Bench Trial completed on 11/27/2018. See transcript. (ab) (Entered: 11/30/2018)
		* * * * *
12/4/18	550	POST TRIAL MEMORANDUM. Document filed by State

DATE	DOCKET NUMBER	PROCEEDINGS
		Of New York. (Colangelo, Matthew) (Entered: 12/04/2018)
12/4/18	551	POST TRIAL MEMORANDUM. Document filed by Bureau of the Census, Ron S. Jarmin, Wilbur L. Ross, Jr., United States Department of Commerce. (Ehrlich, Stephen) (Entered: 12/04/2018)
		* * * * *
1/15/19	574	FINDINGS OF FACT AND CONCLUSIONS OF LAW: The Court concludes that Secretary of Commerce Wilbur L. Ross Jr.'s March 26, 2018 decision to add a question about citizenship status to the 2020 census, while not inconsistent with the Constitution, violated the statutory limits on his authority and the Administrative Procedure Act in several respects. Accordingly, and for the reasons stated in its Findings of Fact and Conclusions of Law, the Court vacates Secretary Ross's decision to add a citizenship question to the 2020 census, enjoins Defendants from implementing his decision or from otherwise adding a citizenship

DATE	DOCKET NUMBER	PROCEEDINGS
		question to the 2020 census without curing the legal defects identified in the Court's Opinion, and remands the matter to the Secretary for further action not inconsistent with the Courts Opinion. Finally, the Court September 21, 2018 Order granting Plaintiffs motion to compel a deposition of Secretary Ross, see Docket No. 345, is VACATED as moot. (Signed by Judge Jesse M. Furman on 1/15/2019) Filed In Associated Cases: 1:18-cv-02921-JMF, 1:18-cv-05025-JMF(tro) (Entered: 01/15/2019)
1/15/19	575	FINAL JUDGMENT, ORDER OF VACATUR, AND PERMANENT INJUNCTION: Final judgment is entered for Defendants and against Plaintiffs on Plaintiffs' claims arising under the Constitution's Enumeration Clause, as amended by the Fourteenth Amendment (namely, the First Claim for Relief in the Second Amended Complaint in No. 18-CV-2921 and the second Cause of Action in the Complaint in No. 18-CV-5025). Final

DATE	DOCKET NUMBER	PROCEEDINGS
		judgment is entered for Defendants and against Plaintiffs on Plaintiffs' claims arising under the Due Process Clause of the Fifth Amendment to the Constitution (namely, the first Cause of Action in the Complaint in No. 18-CV-5025). Final judgment is entered for Plaintiffs and against Defendants on Plaintiffs' claims arising under the Administrative Procedure Act (namely, the Second and Third Claims for Relief in the Second Amended Complaint in No. 18-CV-2921 and the third Cause of Action in the Complaint in No. 18-CV-5025). The March 26, 2018 decision of the Secretary of Commerce to add a question concerning citizenship status to the 2020 decennial census questionnaire is VACATED, and the matter is REMANDED to the Secretary for further action not inconsistent with this Court's Orders. Defendants, including the Secretary of Commerce in his official capacity, the Director of the Census in his official capacity, and any successors to those offices, together

DATE	DOCKET NUMBER	PROCEEDINGS
		with their agents, servants, employees, attorneys, and other persons who are in active concert or participation with the foregoing, see Fed. R. Civ. P. 65(d)(2), are PERMANENTLY ENJOINED from implementing Secretary Ross's March 26, 2018 decision and from adding a citizenship question to the 2020 decennial census questionnaire based on substantially similar reasoning on a substantially similar record, and from doing so unless: 1) the Secretary of Commerce has exhausted his ability to acquire and use administrative records to the maximum extent possible and consistent with the kind, timeliness, quality and scope of the citizenship data required, instead of adding an inquiry to the 2020 census questionnaire; and as further set forth in this Judgment. (Signed by Judge Jesse M. Furman on 1/15/2019) Filed In Associated Cases: 1:18-cv-02921-JMF, 1:18-cv-05025-JMF(ne) Transmission to Docket Assistant Clerk for processing. (Entered: 01/15/2019)

DATE	DOCKET NUMBER	PROCEEDINGS
		* * * * *
1/17/19	576	NOTICE OF APPEAL from (167 in 1:18-cv-05025-JMF, 575 in 1:18-cv-02921-JMF) Judgment,,,,,,,,, (574 in 1:18-cv-02921-JMF, 166 in 1:18-cv-05025-JMF) Findings of Fact & Conclusions of Law,,,,,. Document filed by Bureau of the Census, Steven Dillingham, Wilbur L. Ross, Jr., United States Department of Commerce, Bureau of the Census, Wilbur L. Ross, United States Department of Commerce. Form C and Form D are due within 14 days to the Court of Appeals, Second Circuit. Filed In Associated Cases: 1:18-cv-02921-JMF, 1:18-cv-05025-JMF (Coyle, Garrett) (Entered: 01/17/2019)
		* * * * *
1/24/19	577	NOTICE of withdrawal of deposition notice of Secretary Ross. Document filed by State Of New York. (Colangelo, Matthew) (Entered: 01/24/2019)
		* * * * *

DATE	DOCKET NUMBER	PROCEEDINGS
2/7/19	580	ERRATA ORDER: Seven typographical errors in the Court's Findings of Fact and Conclusions of Law, entered on January 15, 2019, Docket No. 574, are hereby corrected as follows: on page 43 (in Paragraph 30), "The March 1 Memo concluded that Alternative D was plainly inferior to Alternative D" should read, "The March 1 Memo concluded that Alternative D was plainly inferior to Alternative C"; on page 66 (in Paragraph 82), "find an agency that would have as reason to do so" should read "find an agency that would have a reason to do so"; on page 129 (in Paragraph 223), "the Census Bureau's evidence shows that people who in areas" should read "the Census Bureau's evidence shows that people who live in areas"; and as further set forth in this order. (Signed by Judge Jesse M. Furman on 2/7/2019) Filed In Associated Cases: 1:18-cv-02921-JMF, 1:18-cv-05025-JMF(ne) (Entered: 02/07/2019)

* * * * *

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

Docket No. 1:18-cv-05025-JMF

NEW YORK IMMIGRATION COALITION; CASA DE MARYLAND; AMERICAN-ARAB ANTI-DISCRIMINATION COMMITTEE; ADC RESEARCH INSTITUTE; MAKE THE ROAD—NEW YORK, PLAINTIFFS

v.

UNITED STATES DEPARTMENT OF COMMERCE; WILBUR L. ROSS, IN HIS OFFICIAL CAPACITY AS SECRETARY OF COMMERCE; BUREAU OF THE CENSUS, AN AGENCY WITHIN THE UNITED STATES DEPARTMENT OF COMMERCE; STEVEN DILLINGHAM, IN HIS OFFICIAL CAPACITY AS DIRECTOR OF THE CENSUS, DEFENDANTS

DOCKET ENTRIES

DATE	DOCKET NUMBER	PROCEEDINGS
6/6/18	1	COMPLAINT against Bureau of the Census, Ron S. Jarmin, Wilbur L. Ross, United States Department of Commerce. (Filing Fee $400.00, Receipt Number 0208-15161122) Document filed by American-Arab Anti-Discrimination Committee, CASA de Maryland ADC Research Institute, The New York Immigration Coalition, Make the Road—

DATE	DOCKET NUMBER	PROCEEDINGS
		New York. (Freedman, John) (Entered: 06/06/2018)
		* * * * *
6/6/18	3	STATEMENT OF RELATEDNESS re: that this action be filed as related to 18 Civ. 2921 (JMF). Document filed by ADC Research Institute, American-Arab Anti- Discrimination Committee, CASA de Maryland, Make the Road—New York, The New York Immigration Coalition. (Freedman, John) (Entered: 06/06/2018)
		* * * * *
6/7/18		CASE REFERRED TO Judge Jesse M. Furman as possibly related to 18-cv-2921. (jgo) (Entered: 06/07/2018)
		* * * * *
6/8/18		CASE ACCEPTED AS RELATED. Create association to 1:18-cv-02921-JMF. Notice of Assignment to follow. (bcu) (Entered: 06/08/2018)
		* * * * *
6/26/18	30	LETTER addressed to Judge Jesse M. Furman from John A.

DATE	DOCKET NUMBER	PROCEEDINGS
		Freedman dated June 26, 2018 re: Discovery Beyond the Administrative Record. Document filed by ADC Research Institution, American-Arab Anti-Discrimination Committee, CASA de Maryland, Make the Road—New York, New York Immigration Coalition. (Attachments: #1 Exhibit 1, #2 Exhibit 2) (Freedman, John) (Entered: 06/26/2018)
		* * * * *
6/29/18	38	MOTION to Dismiss. Document filed by Bureau of the Census, Ron S. Jarmin, Wilbur L. Ross, United States Department of Commerce. (Ehrlich, Stephen) (Entered: 06/29/2018)
6/29/18	39	MEMORANDUM OF LAW in Support re: 38 MOTION to Dismiss . . Document filed by Bureau of the Census, Ron S. Jarmin, Wilbur L. Ross, United States Department of Commerce. (Ehrlich, Stephen) (Entered: 06/29/2018)
		* * * * *
7/5/18	48	ORDER: For the reasons stated on the record at the con-

DATE	DOCKET NUMBER	PROCEEDINGS
		ference held on July 3, 2018, Plaintiffs request for an order directing Defendants to complete the administrative record and authorizing extra-record discovery is GRANTED. As discussed, the following deadlines shall apply unless and until the Court says otherwise: Fact Discovery due by 10/12/2018. Expert Discovery due by 10/12/2018. Status Conference set for 9/14/2018 at 02:00 PM in Courtroom 1105, 40 Centre Street, New York, NY 10007 before Judge Jesse M. Furman. (Signed by Judge Jesse M. Furman on 7/5/2018) (ne) (Entered: 07/05/2018)
7/9/18	49	MEMORANDUM OF LAW in Opposition re: 38 MOTION to Dismiss . . Document filed by ADC Research Institute, American-Arab Anti-Discrimination Committee, CASA de Maryland, Make the Road—New York, New York Immigration Coalition. (Attachments: #1 Ayoub Declaration, #2 Escobar Declaration, #3 Valdes Declaration, #4

DATE	DOCKET NUMBER	PROCEEDINGS
		Plum Declaration) (Freedman, John) (Entered: 07/09/2018)
		* * * * *
7/13/18	58	REPLY MEMORANDUM OF LAW in Support re: 38 MOTION to Dismiss . . Document filed by Bureau of the Census, Ron S. Jarmin, Wilbur L. Ross, United States Department of Commerce. (Federighi, Carol) (Entered: 07/13/2018)
		* * * * *
7/26/18	70	OPINION AND ORDER re: (38 in 1:18-cv-05025-JMF) MOTION to Dismiss. filed by Wilbur L. Ross, United States Department of Commerce, Bureau of the Census, Ron S. Jarmin, (154 in 1:18-cv-02921-JMF) MOTION to Dismiss. filed by Wilbur L. Ross, Jr., United States Department of Commerce, Bureau of the Census, Ron S. Jarmin, Defendants' motions to dismiss are GRANTED in part and DENIED in part. First, the Court rejects Defendants' attempts to insulate Secretary Ross's decision to reinstate a question about citizen-

DATE	DOCKET NUMBER	PROCEEDINGS
		ship on the 2020 census from judicial review. Granted, courts must give proper deference to the Secretary, but that does not mean that they lack authority to entertain claims like those pressed here. To the contrary, courts have a critical role to play in reviewing the conduct of the political branches to ensure that the census is conducted in a manner consistent with the Constitution and applicable law. Second, the Court concludes that Plaintiffs' claims under the Enumeration Clause which turn on whether Secretary Ross had the power to add a question about citizenship to the census and not on whether he exercised that power for impermissible reasons must be dismissed. Third, assuming the truth of their allegations and drawing all reasonable inferences in their favor, the Court finds that NGO Plaintiffs plausibly allege that Secretary Ross's decision to reinstate the citizenship question was motivated at least in part by discriminatory animus and will result in a discriminatory effect. Accord-

DATE	DOCKET NUMBER	PROCEEDINGS
		ingly, their equal protection claim under the Due Process Clause (and Plaintiffs' APA claims, which Defendants did not substantively challenge) may proceed. None of that is to say that Plaintiffs will ultimately prevail in their challenge to Secretary Ross's decision to reinstate the citizenship question on the 2020 census. As noted, the Enumeration Clause and the Census Act grant him broad authority over the census, and Plaintiffs may not ultimately be able to prove that he exercised that authority in an unlawful manner. Put another way, the question at this stage of the proceedings is not whether the evidence supports Plaintiffs' claims, but rather whether Plaintiffs may proceed with discovery and, ultimately, to summary judgment or trial on their claims. The Court concludes that they may as to their claims under the APA and the Due Process Clause and, to that extent, Defendants' motions are denied. Per the Court's Order entered on July 5, 2018 (Docket No. 199),

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		the deadline for the completion of fact and expert discovery in these cases is October 12, 2018, and the parties shall appear for a pretrial conference on September 14, 2018. The parties are reminded that, no later than the Thursday prior to the pretrial conference, they are to file on ECF a joint letter addressing certain issues. (See id. at 2-3). In that letter, the parties should also give their views with respect to whether the case should resolved by way of summary judgment or trial and whether the two cases should be consolidated for either of those purposes. The Clerk of Court is directed to terminate 18-CV-2921, Docket No. 154; and 18-CV-5025, Docket No. 38. SO ORDERED. (Signed by Judge Jesse M. Furman on 7/26/18) (yv) (Entered: 07/26/2018)
		* * * * *
8/10/18	81	LETTER MOTION to Compel John M. Gore to Appear for Deposition Testimony addressed to Judge Jesse M. Furman from John A. Freedman dated August

DATE	DOCKET NUMBER	PROCEEDINGS
		10, 2018. Document filed by ADC Research Institute, American-Arab Anti-Discrimination Committee, CASA de Maryland, Make the Road—New York, New York Immigration Coalition. (Attachments: #1 Exhibit 1, #2 Exhibit 2, #3 Exhibit 3, #4 Exhibit 4, #5 Exhibit 5) (Freedman, John) (Entered: 08/10/2018)
		* * * * *
8/15/18	90	LETTER RESPONSE in Opposition to Motion addressed to Judge Jesse M. Furman from Kate Bailey dated 08/15/2018 re: 81 LETTER MOTION to Compel John M. Gore to Appear for Deposition Testimony addressed to Judge Jesse M. Furman from John A. Freedman dated August 10, 2018. . Document filed by Bureau of the Census, Ron S. Jarmin, Wilbur L. Ross, United States Department of Commerce. (Bailey, Kate) (Entered: 08/15/2018)
8/17/18	91	ORDER granting 81 Letter Motion to Compel; denying 82 Letter Motion to Compel. For the foregoing reasons, Plaintiffs' letter

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		motion of August 10th is GRANTED to the extent it seeks an order compelling Defendants to make AAG Gore available for a deposition, and their letter motion of August 13th is DENIED to the extent it seeks an order compelling Defendants to produce "materials erroneously withheld." The Clerk of Court is directed to terminate 18-CV-2921, Docket Nos. 236 and 237, and 18-CV-5025, Docket Nos. 81 and 82. SO ORDERED. (Signed by Judge Jesse M. Furman on 8/17/2018) (ne) (Entered: 08/17/2018)
		* * * * *
8/22/18	98	MOTION for Leave to File Amended Complaint. Document filed by ADC Research Institute, American-Arab Anti-Discrimination Committee, CASA de Maryland, Make the Road—New York, New York Immigration Coalition (Rosborough, Davin) (Entered: 08/22/2018)
8/22/18	99	MEMORANDUM OF LAW in Support re: 98 MOTION for

DATE	DOCKET NUMBER	PROCEEDINGS
		Leave to File Amended Complaint . . Document filed by ADC Research Institute, American-Arab Anti-Discrimination Committee, CASA de Maryland, Make the Road—New York, New York Immigration Coalition. (Attachments: #1 Exhibit Proposed Amended Complaint) (Rosborough, Davin) (Entered: 08/22/2018)
		* * * * *
8/28/18	108	MEMORANDUM OF LAW in Opposition re: 98 MOTION for Leave to File Amended Complaint . . Document filed by Bureau of the Census, Ron S. Jarmin, Wilbur L. Ross, United States Department of Commerce. (Coyle, Garrett) (Entered: 08/28/2018)
		* * * * *
8/31/18	115	REPLY MEMORANDUM OF LAW in Support re: 98 MOTION for Leave to File Amended Complaint . . Document filed by ADC Research Institute, American-Arab Anti-Discrimination Committee, CASA de Maryland, Make the Road—

DATE	DOCKET NUMBER	PROCEEDINGS
		New York, New York Immigration Coalition. (Attachments: #1 Exhibit A—Deposition Excerpts, #2 Exhibit B—Freedman email to Defs Counsel) (Rosborough, Davin) (Entered: 08/31/2018)
8/31/18	116	LETTER MOTION to Stay *Discovery Pending Petition for Writ of Mandamus* addressed to Judge Jesse M Furman from Carol Federighi dated August 31, 2018. Document filed by Bureau of the Census, Ron S. Jarmin, Wilbur L. Ross, United States Department of Commerce. (Federighi, Carol) (Entered: 08/31/2018)
		* * * * *
9/4/18	122	ORDER with respect to 116 Letter Motion to Stay Discovery Pending Petition for Writ of Mandamus. To the extent that Defendants see "an administrative stay" (that is, a stay pending a decision on Defendants' motion for a stay), the request is DENIED. Plaintiffs in 18-CV-2921 and 18-CV-5025 shall file a single letter response to Defendants' motion by Thursday, Sep-

DATE	DOCKET NUMBER	PROCEEDINGS
		tember 6, 2018; Defendants shall notify the Court by Friday, September 7, 2018, at noon, if they wish to file a reply and, if so, shall file the reply by Monday, September 10, 2018. (HEREBY ORDERED by Judge Jesse M. Furman) (Text Only Order) (Furman, Jesse) (Entered: 09/04/2018)
		* * * * *
9/6/18	128	LETTER RESPONSE to Motion addressed to Judge Jesse M. Furman from John A. Freedman dated September 6, 2018 re: 116 LETTER MOTION to Stay *Discovery Pending Petition for Writ of Mandamus* addressed to Judge Jesse M. Furman from Carol Federighi dated August 31, 2018. . Document filed by ADC Research Institute, American-Arab Anti-Discrimination Committee, CASA de Maryland, Make the Road—New York, New York Immigration Coalition. (Attachments: #1 Exhibit 1, #2 Exhibit 2, #3 Exhibit 3, #4 Exhibit 4, #5 Exhibit 5, #6

DATE	DOCKET NUMBER	PROCEEDINGS
		Exhibit 6) (Freedman, John) (Entered: 09/06/2018)
9/6/18	129	LETTER RESPONSE to Motion addressed to Judge Jesse M. Furman from John A. Freedman dated September 6, 2018 re: 116 LETTER MOTION to Stay *Discovery Pending Petition for Writ of Mandamus* addressed to Judge Jesse M. Furman from Carol Federighi dated August 31, 2018. *(Corrected Version).* Document filed by ADC Research Institute, American-Arab Anti-Discrimination Committee, CASA de Maryland, Make the Road—New York, New York Immigration Coalition. (Attachments: #1 Exhibit 1, #2 Exhibit 2, #3 Exhibit 3, #4 Exhibit 4, #5 Exhibit 5, #6 Exhibit 6, #7 Exhibit 7) (Freedman, John) (Entered: 09/06/2018)
		* * * * *
9/7/18	131	ORDER re: 116 LETTER MOTION to Stay Discovery Pending Petition for Writ of Mandamus filed by Wilbur L. Ross, United States Department of Commerce, Bureau of the Census, Ron S. Jarmin. Be-

DATE	DOCKET NUMBER	PROCEEDINGS
		cause the deposition of John Gore is apparently scheduled for September 12, 2018 (a fact that was conspicuously omitted from the stay application that Defendants filed on the eve of Labor Day weekend) (Docket No. 129, at 3), and the Court is unavailable Monday and Tuesday on account of a Jewish holiday, Defendants shall file any reply to Plaintiffs' opposition by TODAY at noon—not by Monday, as the Court had indicated in its Order of September 4, 2018. SO ORDERED. (Signed by Judge Jesse M. Furman on 9/7/2018) (Text Only Order) (Furman, Jesse) (Entered: 09/07/2018)
		* * * * *
9/ '18	133	MEMORANDUM OPINION AND ORDER re: 98 MOTION for Leave to File Amended Complaint. filed by New York Immigration Coalition, American-Arab Anti-Discrimination Committee, Make the Road—New York, ADC Research Institute, CASA de Maryland. Accordingly, Plaintiffs' motion to file an amended complaint is DENIED.

DATE	DOCKET NUMBER	PROCEEDINGS
		Notably, that result may not have much practical impact on Plaintiffs' claims or how the Court ultimately resolves them. First, Plaintiffs seek the same relief in their original Complaint and the Proposed Amended Complaint namely, (1) a declaratory judgment that the reinstatement of the citizenship question is unconstitutional and a violation of the APA and (2) and injunction against the inclusion of the question (compare Orig. Compl. at 67, with Proposed Am. Compl. at 104)) relief that can be granted only by the existing Defendants. Second, DOJ's conduct is ultimately within the scope of the Court's review of Secretary Ross's final decision, as the APA provides that "[a] preliminary, procedural, or intermediate agency action . . . is subject to review on the review of the final agency action." 5 U.S.C. § 704; see also Serotte, Reich & Wilson, LLP, 2009 WL 3055294, at *6. And third, in part because of ADC's involvement in the case, the Court can presumably consider

DATE	DOCKET NUMBER	PROCEEDINGS
		the impact of Defendants' conduct on Florida and grant relief that would extend to Florida even in the absence of the proposed new Plaintiffs. But whether that is the case or not, there is no basis to add the DOJ Defendants as new defendants and the Family Action Network Movement and the Florida Immigration Coalition as new plaintiffs. The Clerk of Court is directed to terminate Docket No. 98. (Signed by Judge Jesse M. Furman on 9/7/2018) (tro) (Entered: 09/07/2018)
9/7/18	134	OPINION AND ORDER re: (292 in 1:18-cv-02921-JMF) LETTER MOTION to Stay *Discovery Pending Petition for Writ of Mandamus* addressed to Judge Jesse M. Furman from Carol Federighi dated August 31, 2018. filed by Wilbur L. Ross, Jr., United States Department of Commerce, Bureau of the Census, Ron S. Jarmin, (116 in 1:18-cv-05025-JMF) LETTER MOTION to Stay *Discovery Pending Petition for Writ of Mandamus* addressed to

DATE	DOCKET NUMBER	PROCEEDINGS
		Judge Jesse M. Furman from Carol Federighi dated August 31, 2018. filed by Wilbur L. Ross, United States Department of Commerce, Bureau of the Census, Ron S. Jarmin. For the foregoing reasons, Defendants' motion for a stay of discovery is DENIED in its entirety. The Clerk of Court is directed to terminate 18-CV-2921, Docket No. 292 and 18-CV-5025, Docket No. 116. (Signed by Judge Jesse M. Furman on 9/7/2018) (tro) Entered: 09/07/2018)
		* * * * *
9/10/18	139	LETTER MOTION for Discovery *requesting leave to depose Secretary of Commerce Wilbur L. Ross, Jr.* addressed to Judge Jesse M. Furman from John A. Freedman dated September 10, 2018. Document filed by ADC Research Institute, American-Arab Anti-Discrimination Committee, CASA de Maryland, Make the Road—New York, New York Immigration Coalition. (Attachments: #1 Exhibit 1, #2 Exhibit 2, #3 Exhibit 3, #4

DATE	DOCKET NUMBER	PROCEEDINGS
		Exhibit 4, #5 Exhibit 5, #6 Exhibit 6, #7 Exhibit 7, #8 Exhibit 8, #9 Exhibit 9) (Freedman, John) (Entered: 09/10/2018)
		* * * * *
9/13/18	144	LETTER RESPONSE in Opposition to Motion addressed to Judge Jesse M. Furman from Carol Federighi dated 09/13/2018 re: 139 LETTER MOTION for Discovery *requesting leave to depose Secretary of Commerce Wilbur L. Ross, Jr.* addressed to Judge Jesse M. Furman from John A. Freedman dated September 10, 2018. . Document filed by Bureau of the Census, Ron S. Jarmin, Wilbur L. Ross, United States Department of Commerce. (Attachments: #1 Exhibit 1: In re United States (Vilsack) Order, #2 Exhibit 2: Pls' RFAs to Commerce) (Federighi, Carol) (Entered: 09/13/2018)
		* * * * *
9/14/18	146	ORDER: As stated on the record at the conference held on

DATE	DOCKET NUMBER	PROCEEDINGS
		September 14, 2018, the parties agree that consolidation of these cases would be appropriate. In light of that, and because the actions involve common questions of law and fact, it is hereby ORDERED that, pursuant to Rule 42(a)(2) of the Federal Rules of Civil Procedure, the two cases are consolidated under the case number 18-CV-2921. The Clerk of Court is directed to consolidate 18-CV-2921 and 18-CV-5025 under case number 18-CV-2921, and to close 18-CV-5025. SO ORDERED. (Signed by Judge Jesse M. Furman on 9/14/2018) Filed In Associated Cases: 1:18-cv-02921-JMF, 1:18-cv-05025-JMF(ne) (Entered: 09/14/2018)

* * * * *

UNITED STATES DEPARTMENT OF COMMERCE
Economics and Statistics Administration
U.S. Census Bureau
Washington, DC 20233-0001

Jan. 19, 2018

MEMORANDUM FOR: Wilbur L. Ross, Jr.
Secretary of Commerce

Through: Karen Dunn Kelley
Performing the Non-Exclusive Functions and Duties of the Deputy Secretary

Ron S. Jarmin
Performing the Non-Exclusive Functions and Duties of the Director

Enrique Lamas
Performing the Non-Exclusive Functions and Duties of the Deputy Director

From: John M. Abowd
Chief Scientist and Associate Director for Research and Methodology

Subject: Technical Review of the Department of Justice Request to Add Citizenship Question to the 2020 Census

The Department of Justice has requested block-level citizen voting-age population estimates by OMB-approved race and ethnicity categories from the 2020 Census of Population and Housing. These estimates are currently provided in two related data products: the PL94-171 redistricting data, produced by April 1st of the year following a decennial census under the authority of 13 U.S.C. Section 141, and the Citizen Voting Age Population by Race and Ethnicity (CVAP) tables produced every February from the most recent five-year American Community Survey data. The PL94-171 data are released at the census block level. The CVAP data are released at the census block group level.

We consider three alternatives in response to the request: (A) no change in data collection, (B) adding a citizenship question to the 2020 Census, and (C) obtaining citizenship status from administrative records for the whole 2020 Census population.

We recommend either Alternative A or C. Alternative C best meets DoJ's stated uses, is comparatively far less costly than Alternative B, does not increase response burden, and does not harm the quality of the census count. Alternative A is not very costly and also does not harm the quality of the census count. Alternative B better addresses DoJ's stated uses than Alternative A. However, Alternative B is very costly, harms the quality of the census count, and would use substantially less accurate citizenship status data than are available from administrative sources.

Summary of Alternatives			
	Alternative A	*Alternative B*	*Alternative C*
Description	No change in data collection	Add citizenship question to the 2020 Census (i.e., the DoJ request), all 2020 Census microdata remain within the Census Bureau	Leave 2020 Census questionnaire as designed and add citizenship from administrative records, all 2020 Census microdata and any linked citizenship data remain within the Census Bureau
Impact on 2020 Census	None	Major potential quality and cost disruptions	None
Quality of Citizen Voting-Age Population Data	Status quo	Block-level data improved, but with serious quality issues remaining	Best option for block-level citizenship data, quality much improved
Other Advantages	Lowest cost alternative	Direct measure of self-reported citizenship for the whole population	Administrative citizenship records more accurate than self-reports, incremental cost is very likely to be less than $24. USCIS data would permit record linkage for many more legal resident noncitizens
Shortcomings	Citizen voting-age population data remain the same or are improved by using small-area modeling methods	Citizenship status is misreported at a very high rate for noncitizens, citizenship status is missing at a high rate for citizens and noncitizens due to reduced self-response and increased item nonresponse, nonresponse followup costs increase by at least $27.5M, erroneous enumerations increase, whole-person census imputations increase	Citizenship variable integrated into 2020 Census microdata outside the production system, Memorandum of Understanding with United States Citizen and Immigration Services required to acquire most up-to-date naturalization data

Approved: _____ Date: _____

John M. Abowd, Chief Scientist
and Associate Director for Research and Methodology

Detailed Analysis of Alternatives

The statistics in this memorandum have been released by the Census Bureau Disclosure Review Board with approval number CBDRB-2018-CDAR-014.

Alternative A: Make no changes

Under this alternative, we would not change the current 2020 Census questionnaire nor the planned publications from the 2020 Census and the American Community Survey (ACS). Under this alternative, the PL94-171 redistricting data and the citizen voting-age population (CVAP) data would be released on the current schedule and with the current specifications. The redistricting and CVAP data are used by the Department of Justice to enforce the Voting Rights Act. They are also used by state redistricting offices to draw congressional and legislative districts that conform to constitutional equal-population and Voting Rights Act nondiscrimination requirements. Because the block-group-level CVAP tables have associated margins of error, their use in combination with the much more precise block-level census counts in the redistricting data requires sophisticated modeling. For these purposes, most analysts and the DoJ use statistical modeling methods to produce the block-level eligible voter data that become one of the inputs to their processes.

If the DoJ requests the assistance of Census Bureau statistical experts in developing model-based statistical methods to better facilitate the DoJ's uses of these data in performing its Voting Rights Act duties, a small team of Census Bureau experts similar in size and capabilities to the teams used to provide the Voting

Rights Act Section 203 language determinations would be deployed.

We estimate that this alternative would have no impact on the quality of the 2020 Census because there would be no change to any of the parameters underling the Secretary's revised life-cycle cost estimates. The estimated cost is about $350,000 because that is approximately the cost of resources that would be used to do the modeling for the DoJ.

Alternative B: Add the question on citizenship to the 2020 Census questionnaire

Under this alternative, we would add the ACS question on citizenship to the 2020 Census questionnaire and ISR instrument. We would then produce the block-level citizen voting-age population by race and ethnicity tables during the 2020 Census publication phase.

Since the question is already asked on the American Community Survey, we would accept the cognitive research and questionnaire testing from the ACS instead of independently retesting the citizenship question. This means that the cost of preparing the new question would be minimal. We did not prepare an estimate of the impact of adding the citizenship question on the cost of reprogramming the Internet Self-Response (ISR) instrument, revising the Census Questionnaire Assistance (CQA), or redesigning the printed questionnaire because those components will not be finalized until after the March 2018 submission of the final questions. Adding the citizenship question is similar in scope and cost to recasting the race and ethnicity questions again, should that become necessary, and would be done at the same time. After the 2020

Census ISR, CQA and printed questionnaire are in final form, adding the citizenship question would be much more expensive and would depend on exactly when the implementation decision was made during the production cycle.

For these reasons, we analyzed Alternative B in terms of its adverse impact on the rate of voluntary cooperation via self-response, the resulting increase in nonresponse followup (NRFU), and the consequent effects on the quality of the self-reported citizenship data. Three distinct analyses support the conclusion of an adverse impact on self-response and, as a result, on the accuracy and quality of the 2020 Census. We assess the costs of increased NRFU in light of the results of these analyses.

B.1. Quality of citizenship responses

We considered the quality of the citizenship responses on the ACS. In this analysis we estimated item nonresponse rates for the citizenship question on the ACS from 2013 through 2016. When item nonresponse occurs, the ACS edit and imputation modules are used to allocate an answer to replace the missing data item. This results in lower quality data because of the statistical errors in these allocation models. The analysis of the self-responses responses is done using ACS data from 2013-2016 because of operational changes in 2013, including the introduction of the ISR option and changes in the followup operations for mail-in questionnaires.

In the period from 2013 to 2016, item nonresponse rates for the citizenship question on the mail-in questionnaires for non-Hispanic whites (NHW) ranged from 6.0% to 6.3%, non-Hispanic blacks (NHB) ranged from

12.0% to 12.6%, and Hispanics ranged from 11.6 to 12.3%. In that same period, the ISR item nonresponse rates for citizenship were greater than those for mail-in questionnaires. In 2013, the item nonresponse rates for the citizenship variable on the ISR instrument were NHW: 6.2%, NHB: 12.3% and Hispanic: 13.0%. By 2016 the rates increased for NHB and especially Hispanics. They were NHW: 6.2%, NHB: 13.1%, and Hispanic: 15.5% (a 2.5 percentage point increase). Whether the response is by mail-in questionnaire or ISR instrument, item nonresponse rates for the citizenship question are much greater than the comparable rates for other demographic variables like sex, birthdate/age, and race/ethnicity (data not shown).

B.2. Self-response rate analyses

We directly compared the self-response rate in the 2000 Census for the short and long forms, separately for citizen and noncitizen households. In all cases, citizenship status of the individuals in the household was determined from administrative record sources, not from the response on the long form. A noncitizen household contains at least one noncitizen. Both citizen and noncitizen households have lower self-response rates on the long form compared to the short form; however, the decline in self-response for noncitizen households was 3.3 percentage points greater than the decline for citizen households. This analysis compared short and long form respondents, categories which were randomly assigned in the design of the 2000 Census.

We compared the self-response rates for the same household address on the 2010 Census and the 2010 American Community Survey, separately for citizen and noncitizen households. Again, all citizenship data

were taken from administrative records, not the ACS, and noncitizen households contain at least one noncitizen resident. In this case, the randomization is over the selection of household addresses to receive the 2010 ACS. Because the ACS is an ongoing survey sampling fresh households each month, many of the residents of sampled households completed the 2010 ACS with the same reference address as they used for the 2010 Census. Once again, the self-response rates were lower in the ACS than in the 2010 Census for both citizen and noncitizen households. In this 2010 comparison, moreover, the decline in self-response was 5.1 percentage points greater for noncitizen households than for citizen households.

In both the 2000 and 2010 analyses, only the long-form or ACS questionnaire contained a citizenship question. Both the long form and the ACS questionnaires are more burdensome than the shortform. Survey methodologists consider burden to include both the direct time costs of responding and the indirect costs arising from nonresponse due to perceived sensitivity of the topic. There are, consequently, many explanations for the lower self-response rates among all household types on these longer questionnaires. However, the only difference between citizen and noncitizen households in our studies was the presence of at least one noncitizen in noncitizen households. It is therefore a reasonable inference that a question on citizenship would lead to some decline in overall self-response because it would make the 2020 Census modestly more burdensome in the direct sense, and potentially much more burdensome in the indirect sense that it would lead to a larger decline in self-response for noncitizen households.

B.3. Breakoff rate analysis

We examined the response breakoff paradata for the 2016 ACS. We looked at all breakoff screens on the ISR instrument, and specifically at the breakoffs that occurred on the screens with the citizenship and related questions like place of birth and year of entry to the U.S. Breakoffparadata isolate the point in answering the questionnaire where a respondent discontinues entering data—breaks off—rather than finishing. A breakoff is different from failure to self-respond. The respondent started the survey and was prepared to provide the data on the Internet Self-Response instrument, but changed his or her mind during the interview.

Hispanics and non-Hispanic non-whites (NHNW) have greater breakoffrates than non-Hispanic whites (NHW). In the 2016 ACS data, breakoffs were NHW: 9.5% of cases while NHNW: 14.1% and Hispanics: 17.6%. The paradata show the question on which the breakoff occurred. Only 0.04% of NHW broke off on the citizenship question, whereas NHNW broke off 0.27% and Hispanics broke off 0.36%. There are three related questions on immigrant status on the ACS: citizenship, place of birth, and year of entry to the United States. Considering all three questions Hispanics broke off on 1.6% of all ISR cases, NHNW: 1.2% and NHW: 0.5%. A breakoff on the ISR instrument can result in follow-up costs, imputation of missing data, or both. Because Hispanics and non-Hispanic non-whites breakoff much more often than non-Hispanic whites, especially on the citizenship-related questions, their survey response quality is differentially affected.

B.4. Cost analysis

Lower self-response rates would raise the cost of conducting the 2020 Census. We discuss those increased costs below. They also reduce the quality of the resulting data. Lower self-response rates degrade data quality because data obtained from NRFU have greater erroneous enumeration and whole-person imputation rates. An erroneous enumeration means a census person enumeration that should not have been counted for any of several reasons, such as, that the person (1) is a duplicate of a correct enumeration; (2) is inappropriate (e.g., the person died before Census Day); or (3) is enumerated in the wrong location for the relevant tabulation (https://www.census.gov/coverage_measurement/definitions/). A whole-person census imputation is a census microdata record for a person for which all characteristics are imputed.

Our analysis of the 2010 Census coverage errors (Census Coverage Measurement Estimation Report: Summary of Estimates of Coverage for Persons in the United States, Memo G-01) contains the relevant data. That study found that when the 2010 Census obtained a valid self-response (219 million persons), the correct enumeration rate was 97.3%, erroneous enumerations were 2.5%, and whole-person census imputations were 0.3%. All erroneous enumeration and whole-person imputation rates are much greater for responses collected in NRFU. The vast majority of NRFU responses to the 2010 Census (59 million persons) were collected in May. During that month, the rate of correct enumerations was only 90.2%, the rate of incorrect enumeration was 4.8%, and the rate of whole-person census imputations was 5.0%. June NRFU

accounted for 15 million persons, of whom only 84.6% were correctly enumerated, with erroneous enumerations of 5.7%, and whole-person census imputations of 9.6%. (See Table 19 of 2010 Census Memorandum G-01. That table does not provide statistics for all NRFU cases in aggregate.)

One reason that the erroneous enumeration and whole-person imputation rates are so much greater during NRFU is that the data are much more likely to be collected from a proxy rather than a household member, and, when they do come from a household member, that person has less accurate information than self-responders. The correct enumeration rate for NRFU household member interviews is 93.4% (see Table 21 of 2010 Census Memorandum G-01), compared to 97.3% for non-NRFU households (see Table 19). The information for 21.0% of the persons whose data were collected during NRFU is based on proxy responses. For these 16 million persons, the correct enumeration rate is only 70.1%. Among proxy responses, erroneous enumerations are 6.7% and whole-person census imputations are 23.1% (see Table 21).

Using these data, we can develop a cautious estimate of the data quality consequences of adding the citizenship question. We assume that citizens are unaffected by the change and that an additional 5.1 % of households with at least one noncitizen go into NRFU because they do not self-respond. We expect about 126 million occupied households in the 2020 Census. From the 2016 ACS, we estimate that 9.8% of all households contain at least one noncitizen. Combining these assumptions implies an additional 630,000 households in NRFU. If the NRFU data for those households have

the same quality as the average NRFU data in the 2010 Census, then the result would be 139,000 fewer correct enumerations, of which 46,000 are additional erroneous enumerations and 93,000 are additional whole-person census imputations. This analysis assumes that, during the NRFU operations, a cooperative member of the household supplies data 79.0% of the time and 21.0% receive proxy responses. If all of these new NRFU cases go to proxy responses instead, the result would be 432,000 fewer correct enumerations, of which 67 ,000 are erroneous enumerations and 365,000 are whole-person census imputations.

For Alternative B, our estimate of the incremental cost proceeds as follows. Using the analysis in the paragraph above, the estimated NRFU workload will increase by approximately 630,000 households, or approximately 0.5 percentage points. We currently estimate that for each percentage point increase in NRFU, the cost of the 2020 Census increases by approximately $55 million. Accordingly, the addition of a question on citizenship could increase the cost of the 2020 Census by at least $27.5 million. It is worth stressing that this cost estimate is a lower bound. Our estimate of $55 million for each percentage point increase in NRFU is based on an average of three visits per household. We expect that many more of these noncitizen households would receive six NRFU visits.

We believe that $27.5 million is a conservative estimate because the other evidence cited in this report suggests that the differences between citizen and noncitizen response rates and data quality will be amplified during the 2020 Census compared to historical levels. Hence, the decrease in self-response for citizen households in

2020 could be much greater than the 5.1 percentage points we observed during the 2010 Census.

Alternative C: Use administrative data on citizenship instead of add the question to the 2020 Census

Under this alternative, we would add the capability to link an accurate, edited citizenship variable from administrative records to the final 2020 Census microdata files. We would then produce block-level tables of citizen voting age population by race and ethnicity during the publication phase of the 2020 Census using the enhanced 2020 Census microdata.

The Census Bureau has conducted tests of its ability to link administrative data to supplement the decennial census and the ACS since the 1990s. Administrative record studies were performed for the 1990, 2000 and 2010 Censuses. We discuss some of the implications of the 2010 study below. We have used administrative data extensively in the production of the economic censuses for decades. Administrative business data from multiple sources are a key component of the production Business Register, which provides the frames for the economic censuses, annual, quarterly, and monthly business surveys. Administrative business data are also directly tabulated in many of our products.

In support of the 2020 Census, we moved the administrative data linking facility for households and individuals from research to production. This means that the ability to integrate administrative data at the record level is already part of the 2020 Census production environment. In addition, we began regularly ingesting and loading administrative data from the Social Security Administration, Internal Revenue Service and oth-

er federal and state sources into the 2020 Census data systems. In assessing the expected quality and cost of Alternative C, we assume the availability of these record linkage systems and the associated administrative data during the 2020 Census production cycle.

C.1. Quality of administrate record versus self-report citizenship status

We performed a detailed study of the responses to the citizenship question compared to the administrative record citizenship variable for the 2000 Census, 2010 ACS and 2016 ACS. These analyses confirm that the vast majority of citizens, as determined by reliable federal administrative records that require proof of citizenship, correctly report their status when asked a survey question. These analyses also demonstrate that when the administrative record source indicates an individual is not a citizen, the self-report is "citizen" for no less than 23.8% of the cases, and often more than 30%.

For all of these analyses, we linked the Census Bureau's enhanced version of the SSA Numident data using the production individual record linkage system to append an administrative citizenship variable to the relevant census and ACS microdata. The Numident data contain information on every person who has ever been issued a Social Security Number or an Individual Taxpayer Identification Number. Since 1972, SSA has required proof of citizenship or legal resident alien status from applicants. We use this verified citizenship status as our administrative citizenship variable. Because noncitizens must interact with SSA if they become naturalized citizens, these data reflect current citizenship status albeit with a lag for some noncitizens.

For our analysis of the 2000 Census long-form data, we linked the 2002 version of the Census Numident data, which is the version closest to the April 1, 2000 Census date. For 92.3% of the 2000 Census long-form respondents, we successfully linked the administrative citizenship variable. The 7.7% of persons for whom the administrative data are missing is comparable to the item non-response for self-responders in the mail-in pre-ISR-option ACS. When the administrative data indicated that the 2000 Census respondent was a citizen, the self-response was citizen: 98.8%. For this same group, the long-form response was noncitizen: 0.9% and missing: 0.3%. By contrast, when the administrative data indicated that the respondent was not a citizen, the self-report was citizen: 29.9%, noncitizen: 66.4%, and missing: 3.7%.

In the same analysis of 2000 Census data, we consider three categories of individuals: the reference person (the individual who completed the census form for the household), relatives of the reference person, and individuals unrelated to the reference person. When the administrative data show that the individual is a citizen, the reference person, relatives of the reference person, and nonrelatives of the reference person have self-reported citizenship status of 98.7%, 98.9% and 97.2%, respectively. On the other hand, when the administrative data report that the individual was a noncitizen, the long-form response was citizen for 32.9% of the reference persons; that is, reference persons who are not citizens according to the administrative data self-report that they are not citizens in only 63.3% of the long-form responses. When they are reporting for a relative who is not a citizen according to the administrative data, reference persons list that individual as a

citizen in 28.6% of the long-form responses. When they are reporting for a nonrelative who is not a citizen according to the administrative data, reference persons list that individual as a citizen in 20.4% of the long-form responses.

We analyzed the 2010 and 2016 ACS citizenship responses using the same methodology. The 2010 ACS respondents were linked to the 2010 version of the Census Numident. The 2016 ACS respondents were linked to the 2016 Census Numident. In 2010, 8.5% of the respondents could not be linked, or had missing citizenship status on the administrative data. In 2016, 10.9% could not be linked or had missing administrative data. We reached the same conclusions using 2010 and 2016 ACS data with the following exceptions. When the administrative data report that the individual is a citizen, the self-response is citizen on 96.9% of the 2010 ACS questionnaires and 93.8% of the 2016 questionnaires. These lower self-reported citizenship rates are due to missing responses on the ACS, not misclassification. As we noted above, the item nonresponse rate for the citizenship question has been increasing. These item nonresponse data show that some citizens are not reporting their status on the ACS at all. In 2010 and 2016, individuals for whom the administrative data indicate noncitizen respond citizen in 32.7% and 34.7% of the ACS questionnaires, respectively. The rates of missing ACS citizenship response are also greater for individuals who are noncitizens in the administrative data (2010: 4.1%, 2016: 7.7%) The analysis of reference persons, relatives, and nonrelatives is qualitatively identical to the 2000 Census analysis.

In all three analyses, the results for racial and ethnic groups and for voting age individuals are similar to the results for the whole population with one important exception. If the administrative data indicate that the person is a citizen, the self-report is citizen at a very high rate with the remainder being predominately missing self-reports for all groups. If the administrative data indicate noncitizen, the self-report is citizen at a very high rate (never less than 23.8% for any racial, ethnic or voting age group in any year we studied). The exception is the missing data rate for Hispanics, who are missing administrative data about twice as often as non-Hispanic blacks and three times as often as non-Hispanic whites.

C.2. Analysis of coverage differences between administrative and survey citizenship data

Our analysis suggests that the ACS and 2000 long form survey data have more complete coverage of citizenship than administrative record data, but the relative advantage of the survey data is diminishing. Citizenship status is missing for 10.9 percent of persons in the 2016 administrative records, and it is missing for 6.3 percent of persons in the 2016 ACS. This 4.6 percentage point gap between administrative and survey missing data rates is smaller than the gap in 2000 (6.9 percentage points) and 2010 (5.6 percentage points). Incomplete (through November) pre-production ACS data indicate that citizenship item nonresponse has again increased in 2017.

There is an important caveat to the conclusion that survey-based citizenship data are more complete than administrative records, albeit less so now than in 2000. The methods used to adjust the ACS weights for sur-

vey nonresponse and to allocate citizenship status for item nonresponse assume that the predicted answers of the sampled non-respondents are statistically the same as those of respondents. Our analysis casts serious doubt on this assumption, suggesting that those who do not respond to either the entire ACS or the citizenship question on the ACS are not statistically similar to those who do; in particular, their responses to the citizenship question would not be well-predicted by the answers of those who did respond.

The consequences of missing citizenship data in the administrative records are asymmetric. In the Census Numident, citizenship data may be missing for older citizens who obtained SSNs before the 1972 requirement to verify citizenship, naturalized citizens who have not confirmed their naturalization to SSA, and noncitizens who do not have an SSN or ITIN. All three of these shortcomings are addressed by adding data from the United States Citizen and Immigration Services (USCIS). Those data would complement the Census Numident data for older citizens and update those data for naturalized citizens. A less obvious, but equally important benefit, is that they would permit record linkage for legal resident aliens by allowing the construction of a supplementary record linkage master list for such people, who are only in scope for the Numident if they apply for and receive an SSN or ITIN. Consequently, the administrative records citizenship data would most likely have both more accurate citizen status and fewer missing individuals than would be the case for any survey-based collection method. Finally, having two sources of administrative citizenship data permits a detailed verification of the accuracy of those sources as well.

C.3. Cost of administrative record data production

For Alternative C, we estimate that the incremental cost, except for new MOUs, is $450,000. This cost estimate includes the time to develop an MOU with USCIS, estimated ingestion and curation costs for USCIS data, incremental costs of other administrative data already in use in the 2020 Census but for which continued acquisition is now a requirement, and staff time to do the required statistical work for integration of the administrative-data citizenship status onto the 2020 Census microdata. This cost estimate is necessarily incomplete because we have not had adequate time to develop a draft MOU with USCIS, which is a requirement for getting a firm delivery cost estimate from the agency. Acquisition costs for other administrative data acquired or proposed for the 2020 Census varied from zero to $1.5M. Thus the realistic range of cost estimates, including the cost of USCIS data, is between $500,000 and $2.0M

Questions on the Jan 19 Draft Census Memo on the DoJ Citizenship Question Reinstatement Request

1. **With respect to Alternatives B and C, what is the difference, if any, between the time when the data collected under each alternative would be available to the public?**

   Since the collection of this data, whether from administrative records or from an enumerated question, occurs prior to the creation of the Microdata Detail File (MDF) from which all tabulations will be performed, there is no difference in the timing of when the data collected under either alternative B or C could be made available to the public. The exact date for completion of the MDF is still being determined as the 2020 Census schedule is matured. However, the 2020 Census is working towards publishing the first post-apportionment tabulation data products as early as the first week of February 2021.

2. **What is the "2020 Census publication phase" (page 1 of the Detailed Analysis for Alternative B) versus Alternative C? Would there be any difference?**

   The 2020 Census publication phase is a broad window stretching from the release of the apportionment counts by December 31, 2020 through the last data product or report published in FY 2023, the final year of decennial funding for the 2020 Census. However, as stated in the answer to question 1, these data could be made available to the public on the same schedule as any other post-apportionment tabulated data product regardless of whether alternative B or C is used in its collection.

3. **What is the non-response rate for: (A) each question on the 2000 and 2010 Decennial Census short form and (B) each question on the 2010 ACS and most recent ACS?**

The table below shows the item non-response (INR) rate for each question on the 2000 and 2010 Decennial Census short form. This is the percentage of respondents who did not provide an answer to an item.

Item Nonresponse Rates for 2000 and 2010 Short Form Person Questions

	Relationship	Sex	Age	Hispanic Origin	Race	Tenure
2010	1.5	1.5	3.5	3.9	3.3	4.5
2000	1.3	1.1	3.7	3.1	2.9	4.1

Source: Rothhaas, Lestina and Hill (2012) Tables

Notes and Source:

Rothhaas, C., Lestina, F. and Hill, J. (2012) "2010 Decennial Census Item Nonresponse and Imputation Assessment Report" 2010 Census Program for Evaluations and Experiments, January 24, 2012.

From report:

The INR rate is essentially the proportion of missing responses before pre-editing or imputation procedures for a given item (i.e., the respondent did not provide an answer to the item). For INR, missing values are included in the rates, but inconsistent responses (i.e., incompatible with other responses) are considered non-missing responses.

Online link to 2010 report that has 2000 information as well.
https://www.census.gov/2010census/pdf/2010_Census_INR_Imputation_Assessment.pdf

See attached spreadsheet for the item allocation rates by questions for the ACS for 2010, 2013, and 2016.

4. **What was the total survey response rate (i.e., percentage of complete questionnaires) for the 2000 long form and the 2000 short form? Of the incomplete long forms, what percentage left the citizenship question blank? Of the completed long forms, what percentage (if known) contained incorrect responses to the citizenship question?**

We do not have measures of total survey response rates from the 2000 long form and 2000 short form available at this time. The mail response rate in 2000 was 66.4 percent for short forms and 53.9 percent for long forms. No analysis that we were aware of was conducted on the incomplete long forms that left the citizenship question blank. The Census 2000 Content Reinterview Survey showed low inconsistency of the responses to the citizenship question. Only 1.8 percent of the respondents changed answers in the reinterview.

Source for 2000 mail response rates:
https://www.census.gov/pred/www/rpts/A.7.a.pdf

Source for 2000 Content Reinterview Survey. Page 32 source.
https://www.census.gov/pred/www/rpts/B.5FR_RI.PDF

5. **For the 2000 long and short forms, what was the percentage unanswered (left blank) for each question (i.e., what percentage of the responses for each question (sex, race, ethnicity, income, citizenship, etc.) were left blank)?**

For the 2000 shortform, the table in question 3a provides the percentage unanswered for each question.

For the 2000 longform, Griffin, Love and Obenski (2003) summarized the Census 2000 longform responses. Allocation rates for individual items in Census 2000 were computed, but because of the magnitude of these data, summary allocation measures were derived.

These rates summarize completeness across all data items for occupied units (households) and are the ratio of all population and housing items that had values allocated to the total number of population and housing items required to have a response. These composite measures provide a summary picture of the completeness of all data. Fifty-four population items and 29 housing items are included in these summary measures. The analysis showed that 9.9 percent of the population question items and 12.5 percent of the housing unit question items required allocation. Allocation involves using statistical procedures, such as within-household or nearest neighbor matrices, to impute missing values.

https://ww2.amstat.org/sections/srms/Proceedings/y2003/Files/JSM2003-000596.pdf

6. **What was the incorrect response rate for the citizenship question that was asked on the Long Form during the 2000 Decennial Census? Does the response rate on the 2000 Long Form differ from the incorrect response rate on the citizenship question for the ACS?**

In the 2000 long form, 2.3 percent of persons have inconsistent answers, 89.4 percent have consistent answers, and 8.2 percent have missing citizenship data in the SSA Numident and/or the 2000 long form. Among persons with nonmissing citizenship data in the SSA Numident and/or the 2000 long form, 2.6 percent have inconsistent answers and 97.4 percent have consistent answers.

In the 2010 ACS, 3.1 percent of persons have inconsistent answers, 86.0 percent have consistent answers, and 10.8 percent have missing citizenship data in the SSA Numident and/or the 2010 ACS. Among persons with nonmissing citizenship data in the SSA Numident and/or the 2010 ACS, 3.6 percent have inconsistent answers and 96.4 percent have consistent answers.

In the 2016 ACS, 2.9 percent of persons have inconsistent answers, 81.2 percent have consistent answers, and 15.9 percent have missing citizenship data in the SSA Numident and/or the 2016 ACS. Among persons with nonmissing citizenship data in the SSA Numident and/or the 2016 ACS, 3.5 percent have inconsistent answers and 96.5 percent have consistent answers.

These ACS and 2000 Census long form rates are based on weighted data.

This shows that inconsistent response rates are higher in the 2010 and 2016 ACS than in the 2000 long form.

7. **What is the incorrect response rate on other Decennial or ACS questions for which Census has administrative records available (for example, age, sex or income)?**

Table 7a shows the agreement rates between the 2010 Census response and the SSA Numident for persons who could be linked and had nonmissing values, and Table 7b shows the agreement rates between the 2010 ACS and the SSA Numident. Gender has low disagreement (0.4-0.5 percent), and white alone (0.9 percent), black alone (1.7-2 percent), and age (2.1 percent) also have low disagreement rates. Disagreement rates are greater for other races (e.g., 46.4-48.6 percent for American Indian or Alaska Native alone). Hispanic origin is not well measured in the Numident, because it contains a single race response, one of which is Hispanic.

Table 7a. Demographic Variable Agreement Rates Between the 2010 Census and the SSA Numident

2010 Census Response	Percent Agreement with SSA Numident
Hispanic	54.2
Not Hispanic	99.7
White Alone	99.1
Black Alone	98.3
American Indian or Alaska Native Alone	51.4
Asian Alone	84.3
Native Hawaiian or Other Pacific Islander Alone	74.4
Some Other Race Alone	17.7
Age	97.9
Gender	99.4

Source: Rastogi, Sonya, and Amy O'Hara, 2012, "2010 Census Match Study," 2010 Census Planning Memoranda Series No. 247.

Table 7b. Demographic Variable Agreement Rates Between the 2010 Census and the SSA Numident

2010 ACS Response	Percent Agreement with SSA Numident
White Alone	99.1
Black Alone	98.0
American Indian or Alaska Native Alone	53.6
Asian Alone	82.9
Native Hawaiian or Other Pacific Islander Alone	72.9
Some Other Race Alone	17.2
Age 0-2 Date of Birth	95.2
Age 3-17 Date of Birth	95.6
Age 18-24 Date of Birth	95.2
Age 25-44 Date of Birth	95.8
Age 45-64 Date of Birth	95.9
Age 65-74 Date of Birth	96.5
Age 75 and older Date of Birth	92.7
Male	99.5
Female	99.5

Source: Bhaskar, Renuka, Adela Luque, Sonya Rastogi, and James Noon, 2014, "Coverage and Agreement of Administrative Records and 2010 American Community Survey Demographic Data," CARRA Working Paper #2014-14.

Abowd and Stinson (2013) find correlations of 0.75-0.89 between Survey of Income and Program Participation (SIPP) and SSA Detailed Earnings Record annual earnings between 1990-1999.[1]

8. **How does the Census presently handle responses on the (A) Decennial Census and (B) the ACS when administrative records available to the Census confirm that the response on the Decennial Census or ACS is incorrect? Is the present Census approach to incorrect responses based on practice/policy or law (statute or regulation)?**

We have always based the short form Decennial Census and the ACS on self-response, and while we have procedures in place to address duplicate or fraudulent responses, we do not check the accuracy of the answers provided to the specific questions on the Census questionnaire. This is a long established practice at the Census Bureau that has been thoroughly tested and in place since 1970, when the Census Bureau moved to a mailout/respond approach to the Decennial Census. Title 13 of the U.S. Code allows the Census Bureau to use alternative data sources, like administrative records,

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[1] Abowd, John M., and Martha H. Stinson, 2013, "Estimating Measurement Error in Annual Job Earnings: A Comparison of Survey and Administrative Data," Review of Economics and Statistics, Vol. 95(55), pp. 1451-1467.

for a variety of purposes, and we are using data in new ways in the 2020 Census. While this includes the use of administrative records data to fill in areas where a respondent does not provide an answer, we have not explored the possibility of checking or changing responses that a responding household has provided in response to the questionnaire.

9. **Please explain the differences between the self-response rate analysis and the breakoff rate analysis. The range of breakoff rates between groups was far smaller than the range of self-response rates between groups.**

Self-response means that a household responded to the survey by mailing back a questionnaire or by internet, and a sufficient number of core questions were answered so that an additional field interview was not required.

A breakoff occurs when an internet respondent stops answering questions prior to the end of the questionnaire. In most cases the respondent answers the core questions before breaking off, and additional fieldwork is not required. The breakoff rates are calculated separately by which question screen was the last one reached before the respondent stopped answering altogether.

The share of Hispanic respondents who broke off at some point before the end of the questionnaire (17.6 percent) is much higher than for non-Hispanic whites (9.5 percent). Spreading the overall breakoff rates over 134 screens in the questionnaire works out to quite small rates per screen. It works out to an average breakoff rate of 0.131 percent per

screen for Hispanics and 0.066 percent for non-Hispanic whites.

10. **The NRFU numbers are comparatively small—approximately one additional household for NRFU per Census enumerator. Is this really a significant source of concern?**

Yes, this is a significant concern. First, it gives rise to incremental NRFU cost of at least $27.5 million. This is a lower bound becaues it assumes the households that do not self-respond because we added a question on citizenship have the same follow-up costs as an average U.S. household. They won't because these households overwhelmingly contain at least one noncitzen, and that is one of our acknowledged hard-to-count subpopulations.

11. **Given that the breakoff rate difference was approximately 1 percent, why did Census choose to use the 5.1 percent number for assessing the cost of Alternative B?**

If a household breaks off an internet response at the citizenship, place of birth, or year of entry screens, this means it would have already responded to the core questions. This would not trigger follow-up fieldwork and thus would not involve additional fieldwork costs. In contrast, if a household does not mail back a questionnaire or give an internet response, fieldwork will be necessary and additional costs will be incurred. Thus, the 5.1 percent number for differential self-response is more appropriate for estimating the additional fieldwork cost of adding a citizenship question.

12. **Alternative C states that Census would use administrative data from the Social Security Administration, Internal Revenue Service, and "other federal and state sources." What are the other sources?**

In addition to continuing the acquisition of the Social Security Administration and Internal Revenue Service data, the Census Bureau is in discussion with the U.S. Citizen and Immigration Services (USCIS) staff to acquire additional citizenship data.

13. **Is Census confident that administrative data will be able to be used to determine citizenship for all persons (e.g., not all citizens have social security numbers)?**

We are confident that Alternative C is viable and that we have already ingested enough high-quality citizenship administrative data from SSA and IRS. The USCIS data are not required. They would, however, make the citizenship voting age tabulations better, but the administrative data we've got are very good and better than the data from the 2000 Census and current ACS. The type of activities required for Alternative C already occur daily and routinely at the Census Bureau. We have been doing this for business data products, including the Economic Censuses, for decades. We designed the 2020 Census to use this technology too.

14. **For Alternative C, the memo says, "we assume the availability of these record linkage systems and associated administrative data"—does Census already have in place access to this data or would this need to be negotiated? If negotiated, for which data sets specifically?**

The Census Bureau has longstanding contractual relationships with the Social Security Administration and the Internal Revenue Service that authorize the use of data for this project. For new data acquired for this project (i.e., USCIS) we would estimate a six-month development period to put a data acquisition agreement in place. That agreement would also include terms specifying the authorized use of data for this project.

15. **Are there any privacy issues / sensitive information prohibitions that might prevent other agencies from providing such data?**

There are no new privacy or sensitivity issues associated with other agencies providing citizenship data. We have received such information in the past from USCIS. We are currently authorized to receive and use the data from SSA and IRS that are discussed in Alternative C.

16. **How long would Census expect any negotiation for access to data take? How likely is it that negotiations would be successful? Are MOA's needed/ required?**

Current data available to the Census Bureau provide the quality and authority to use that are required to support this project. Additional information potentially available from USCIS would serve to

supplement/validate those existing data. We are in early discussions with USCIS to develop a data acquisition agreement and at this time have no indications that this acquisition would not be successful.

17. **What limitations would exist in working with other agencies like IRS, Homeland Security, etc. to share data?**

The context for sharing of data for this project is for a one-way sharing of data from these agencies to the Census Bureau. Secure file transfer protocols are in-place to ingest these data into our Title 13 protected systems. For those data already in-place at the Census Bureau to support this project, provisions for sharing included in the interagency agreement restrict the Census Bureau from sharing person-level microdata outside the Census Bureau's Title 13 protections. Aggregates that have been processed through the Bureau's disclosure avoidance procedures can be released for public use.

18. **If Alternative C is selected, what is Census's backup plan if the administrative data cannot be completely collected and utilized as proposed?**

The backup plan is to use all of the administrative data that we currently have, which is the same set that the analyses of Alternative C used. We have verified that this use is consistent with the existing MOUs. We would then use estimation and modeling techniques similar to those used for the Small Area Income and Poverty Estimates (SAIPE) to impute missing citizenship status for those persons

for whom we do not have administrative records. These models would also include estimates of naturalizations that occurred since the administrative data were ingested.

19. **Does Census have any reason to believe that access to existing data sets would be curtailed if Alternative C is pursued?**

No we do not believe that any access to existing data sets would be curtailed if we pursue Alternative C.

20. **Has the proposed Alternative C approach ever been tried before on other data collection projects, or is this an experimental approach? If this has been done before, what was the result and what were lessons learned?**

The approach in Alternative C has been routinely used in processing the economic censuses for several decades. The Bureau's Business Register was specifically redesigned for the 2002 Economic Census in order to enhance the ingestion and use of administrative records from the IRS and other sources. The data in these administrative records are used to substitute for direct responses in the economic censuses for the unsampled entities. They are also used as part of the review, edit, and imputation systems for economic censuses and surveys. On the household side, the approach in Alternative C was used extensively to build the residential characteristics for OnTheMap and OnTheMap for Emergency Management.

21. **Is using sample data and administrative records sufficient for DOJ's request?**

The 2020 Census data combined with Alternative C are sufficient to meet DoJ's request. We do not anticipate using any ACS data under Alternative C.

22. **Under Alternative C, If Census is able to secure interagency agreements to provide needed data sets, do we know how long it would take to receive the data transmission from other agencies and the length of time to integrate all that data, or is that unknown?**

With the exception of the USCIS data, the data used for this project are already integrated into the 2020 Census production schema. In mid-to late 2018, we plan to acquire the USCIS data and with those data and our existing data begin to develop models and business rules to select citizenship status from the composite of sources and attach that characteristic to each U.S. person. We expect the development and refinement of this process to continue into 2019 and to be completed by third quarter calendar year 2019.

23. **Cross referencing Census decennial responses with numerous governmental data sets stored in various databases with differing formats and storage qualities sounds like it could be complicated. Does Census have an algorithm in place to efficiently combine and cross reference such large quantities of data coming from many different sources? What cost is associated with Alternative C, and what technology/plan does Census have in place to execute?**

Yes, the 2018 Census End-to-End test will be implementing processing steps to be able to match Census responses to administrative record information from numerous governmental data sets. The Census Bureau has in place the Person Identification Validation System to assign Protected Identification Keys to 2020 Census responses. The required technology for linking in the administrative records is therefore part of the 2020 Census technology. This incremental cost factored into the estimate for Alternative C is for integrating the citizenship variable specifically, since that variable is not currently part of the 2020 Census design. No changes are required to the production Person Identification Validation system to integrate the administrative citizenship data.

24. **For section C-1 of the memo, when did Census do the analyses of the incorrect response rates for non-citizen answers to the long form and ACS citizenship question? Were any of the analyses published?**

The comparisons of ACS, 2000 Decennial Census longform and SSA Numident citizenship were conducted in January 2018. This analysis has not been published.

25. **Has Census corrected the incorrect responses it found when examining non-citizen responses? If not, why not?**

In the American Community Survey (ACS), and the short form Decennial Census, we do not change self-reported answers. The Decennial Census and the ACS are based on self-response and we accept

the responses provided by households as they are given. While we have procedures in place to address duplicate or fraudulent responses, we do not check the accuracy of the answers provided to the specific questions on the Census questionnaires. This is a long established process at the Census Bureau that has been thoroughly tested and in place since 1970, when the Census Bureau moved to a mail-out/respond approach to the Decennial Census.

26. **Has the Department of Justice ever been made aware of inaccurate reporting of ACS data on citizenship, so that they may take this into consideration when using the data?**

Not exactly. The Census Bureau is in close, regular contact with the Department of Justice (DOJ) regarding their data requirements. Our counterparts at DOJ have a solid understanding of survey methodology and the quality of survey data, and they are aware of the public documentation on sampling and accuracy surrounding the ACS. However, the specific rate of accuracy regarding responses to the ACS question on citizenship has never been discussed.

27. **Why has the number of persons who cannot be linked increased from 2010 to 2016?**

The linkage between the ACS and administrative data from the SSA Numident and IRS ITIN tax filings depends on two factors: (a) the quality of the personally identifiable information (PII) on the ACS response and (b) whether the ACS respondent is in the SSN/ITIN universe.

With respect to the quality of the PII on the ACS, there may be insufficient information on the ACS due to item nonresponse or proxy response for the person to allow a successful match using the production record linkage system. There may also be more than one record in the Numident or ITIN IRS tax filings that matches the person's PII. Finally, there may be a discrepancy between the PII provided to the ACS and the PII in the administrative records.

Alternatively, the person may not be in the Numident or ITIN IRS tax filing databases because they are out of the universe for those administrative systems. This happens when the person is a citizen without an SSN, or when the person is a noncitizen who has not obtained an SSN or ITIN.

Very few of the unlinked cases are due to insufficient PII in the ACS or multiple matches with administrative records. The vast majority of unlinked ACS persons have sufficient PII, but fail to match any administrative records sufficiently closely. This means that most of the nonmatches are because the ACS respondent is not in the administrative record universe.

The incidence of ACS persons with sufficient PII but no match with administrative records increased between 2010 and 2016. One contributing factor is that the number of persons linked to ITIN IRS tax filings in 2016 was only 39 percent as large as in 2010, suggesting that either fewer of the noncitizens in the 2016 ACS had ITINs, or more of them provided PII in the ACS that was inconsistent with their PII in IRS records.

28. **Independent of this memo, what action does Census plan to take in response to the analyses showing that non-citizens have been incorrectly responding to the citizenship question?**

The Census Bureau does not have plans to make any changes to procedures in the ACS. However, we will continue to conduct thorough evaluations and review of census and survey data. The ACS is focusing our research on the potential use of administrative records in the survey. For instance, we are exploring whether we can use IRS data on income to reduce the burden of asking questions on income on the ACS. We are concentrating initially on questions that are high burden, e.g., questions that are difficult to answer or questions that are seen as intrusive.

29. **Did Census make recommendations the last time a question was added?**

Since the short form Decennial Census was established in 2010, the only requests for new questions we have received have been for the ACS. And, in fact, requests for questions prior to 2010 were usually related to the Decennial Census Long Form. We always work collaboratively with Federal agencies that request a new question or a change to a question. The first step is to review the data needs and the legal justification for the new question or requested changes. If, through this process, we determine that the request is justified, we work with the other agencies to test the question (cognitive testing and field testing). We also work collaboratively on the analysis of the results from the test which inform the final recommendation

about whether or not to make changes or add the question.

30. **Does not answering truthfully have a separate data standard than not participating at all?**

We're not sure what you're asking here. Please clarify the question.

31. **What was the process that was used in the past to get questions added to the decennial Census or do we have something similar where a precedent was established?**

Because no new questions have been added to the Decennial Census (for nearly 20 years), the Census Bureau did not feed bound by past precedent when considering the Department of Justices' request. Rather, the Census Bureau is working with all relevant stakeholders to ensure that legal and regulatory requirements are filled and that questions will produce quality, useful information for the nation. As you are aware, that process is ongoing at your direction.

32. **Has another agency ever requested that a question be asked of the entire population in order to get block or individual level data?**

Not to our knowledge. However, it is worth pointing out that prior to 1980 the short form of the Decennial Census included more than just the 10 questions that have been on the short form since 1990.

33. **Would Census linking of its internal data sets, with other data sets from places like IRS and Homeland Security, have an impact on participation as well (i.e., privacy concerns)?**

The potential that concerns about the use of administrative records could have an impact on participation has always been a concern of ours, and it's a risk that we're managing on our risk register. We've worked closely with the privacy community throughout the decade, and we established a working group on our National Advisory Committee to explore this issue. We've also regularly briefed the Congress about our plans. At this stage in the decade there does not appear to be extensive concerns among the general public about our approach to using administrative records in the Nonresponse Operation or otherwise. We will continue to monitor this issue.

34. **Would Alternative C require any legislation? If so, what is the estimated time frame for approval of such legislation?**

No.

35. **Census publications and old decennial surveys available on the Census website show that citizenship questions were frequently asked of the entire population in the past. Citizenship is also a question on the ACS. What was the justification provided for citizenship questions on the (A) short form, (B) long form, and (C) ACS?**

In 1940, the Census Bureau introduced the use of a short form to collect basic characteristics from all respondents, and a long form to collect more de-

tailed questions from only a sample of respondents. Prior to 1940, census questions were asked of everyone, though in some cases only for those with certain characteristics. For example, in 1870, a citizenship question was asked, but only for respondents who were male and over the age of 21.

Beginning in 2005, all the long-form questions—including a question on citizenship—were moved to the ACS. 2010 was the first time we conducted a short-form only census. The citizenship question is included in the ACS to fulfill the data requirements of the Department of Justice, as well as many other agencies including the Equal Employment Opportunities Commission, the Department of Health and Human Services, and the Social Security Administration.

Summary Analysis of the Key Differences Between Alternative C and Alternative D

This short note describes the Census Bureau's current assumptions about two alternatives to address the need for block level data on citizen voting age populations. The goal is to measure the citizenship status of all people enumerated in the 2020 Decennial Census. Both alternatives utilize administrative data on the citizenship status of individuals, however one option, Alternative D, proposes to also include the current American Community Survey (ACS) question on citizenship status on the 2020 Decennial Census short form.

In both alternatives described here, the methodology requires linking 2020 census response data and administrative records. However, as illustrated both alternatives would also need to assign/impute citizenship for a portion of the population. The Census Bureau will have to assign citizenship in cases of questionnaire nonresponse and item non-response. Additionally, it is important to note, that even when a self-response is available it is not always possible to link response data with administrative records data. Poor data quality (e.g., name and age) and nonresponse or incomplete 2020 Census responses mean that we will not have a direct measure of citizenship status for all residents enumerated in 2020. The Census Bureau will to need employ an imputation model for these cases.

One of the key differences between to the two alternatives described below is the number of cases requiring imputation. The other key difference is the impact of errors in the citizenship status reported on the 2020 Census.

In the most recent version of the 2020 Decennial Life Cycle Cost Estimate, the Census Bureau projects counting 330 million residents in 2020. Figure 1 summarizes how citizenship status will be measured under Alternative C that does not employ a citizenship question on the 2020 Census. Figure 2 summarizes how this will be done using both administrative records and a 2020 citizenship question under Alternative D.

Alternative C is a simplified process for assigning citizenship through direct linkage and modelling, without including the question on the 2020 Census. The Census Bureau will link the responses for the 330 million census records to administrative records that contain information on the citizenship status of individuals. The Census Bureau expects to successfully link and observe this status for approximately 295 million people. The Census Bureau would need to impute this status for approximately 35 million people under Alternative C whose 2020 responses cannot be linked to administrative data. Although the Census Bureau has fully developed and tested the imputation model, it has high confidence that an accurate model can be developed and deployed for this purpose. Further, we will most likely never possess a fully adequate truth deck to benchmark it to.

Measuring citizenship status is slightly more complex under Alternative D where all U.S. households will be given the opportunity to provide the citizenship status of each household member. Based on response data for the ACS citizenship and other response data research, we know that not all households that respond to the 2020 Census will answer this question, leaving the question blank or with otherwise invalid responses. Additionally, Alternative D, must also account for those

households that do not respond at all or will have proxy responses. Due to these reasons, we estimate that we will get 2020 citizenship status responses for approximately 294.6 million people, a slightly higher estimate than Alternative C. For the 35.4 million people without a 2020 citizenship response, the Census Bureau will employ the same methodology as in Alternative C, linking the 2020 Census responses to the administrative records. The Census Bureau estimates that it will be able to link these cases to administrative records where we observe citizenship status for approximately 21.5 million people. For the remaining 13.8 million will be imputed through a model as described above. Thus, there will be a need for imputing many cases across either alternative.

The Census Bureau will link the 294.6 million records from the 2020 Census with the administrative records. This will be done both for potential quality assurance purposes and to improve the quality of future modeling uses. Based on the current research from the ACS, the Census Bureau expects to successfully link approximately 272.5 million of these cases. Of these, 263 million will have citizenship statuses that agree across the 2020 response and administrative record. The Census Bureau estimates there will be 9.5 million cases where there is disagreement across the two sources. Historic Census Bureau practice is to use self-reported data in these situations. However, the Census Bureau now knows from linking ACS responses on citizenship to administrative data that nearly one third of noncitizens in the administrative data respond to the questionnaire indicating they are citizens, indicating that this practice should be revisited in the case of measuring citizenship. Finally, for those 22.2 million cases

that do not link to administrative records (non-linkage occurs for the same data quality reasons discussed above), the Census Bureau will use the observed 2020 responses. Again, Census Bureau expect some quality issues with these responses. Namely, the Census Bureau estimates that just under 500 thousand noncitizens will respond as citizens.

The relative quality of Alternative C versus Alternative D will depend on the relative importance of the errors in administrative data, response data, and imputations. To be slightly more but not fully precise consider the following description of errors under both alternatives. First note that all possible measurement methods will have errors. Under Alternative C, there will be error in the administrative records, but we believe these to be relatively limited dues to the procedure following by SSA, USCIS and State. In both Alternative, the modeled cases will be subject to prediction error. Prediction error occur when the model returns the incorrect status of a case. As there are more models cases in Alternative C, prediction error will be a bigger issue there. Alternative D has an additional source or error, response error. This is where 2020 respondent give the incorrect status. Statisticians often hope these error are random and cancel out. However, we know from prior research that citizenship status responses are systematically biased for a subset of noncitizens. Response error is only an issue in alternative D. Unfortunately, the Census Bureau cannot quantify the relative magnitude of the errors across the alternatives at this time.

Figure 1

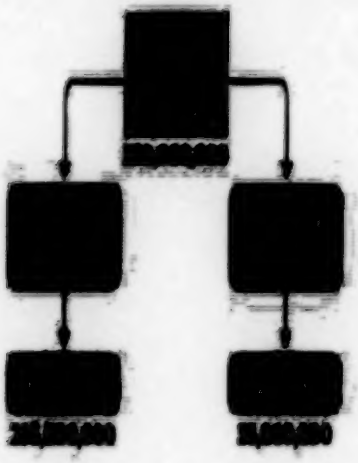
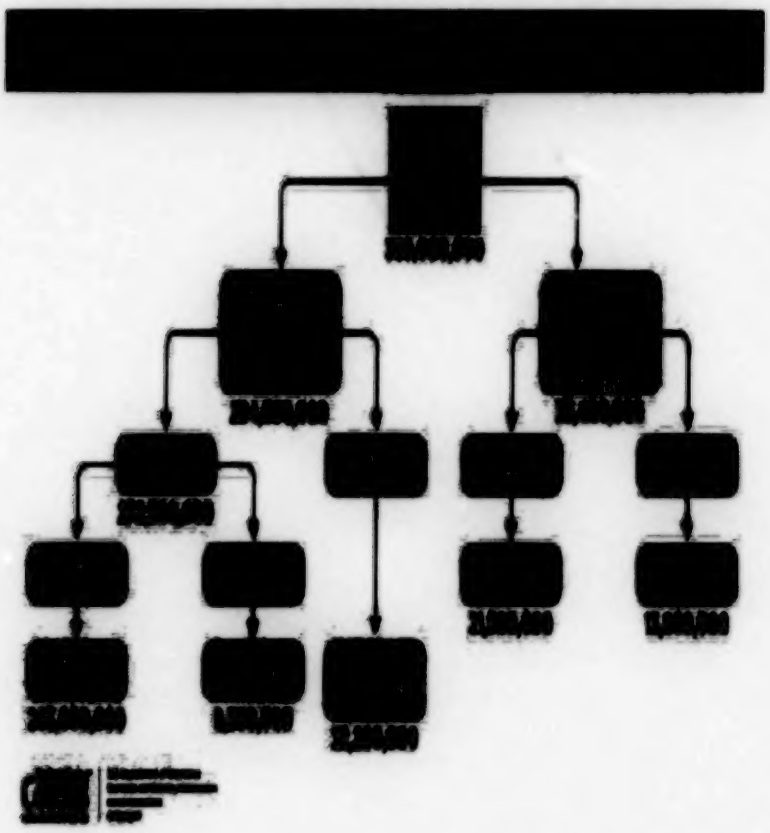


Figure 2



UNITED STATES DEPARTMENT OF COMMERCE
Economics and Statistics Administration
U.S. Census Bureau
Washington, DC 20233-0001

Mar. 1, 2018

MEMORANDUM FOR: Wilbur L. Ross, Jr.
Secretary of Commerce

Through: Karen Dunn Kelley
Performing the Non-Exclusive Functions and Duties of the Deputy Secretary

Ron S. Jarmin
Performing the Non-Exclusive Functions and Duties of the Director

Enrique Lamas
Performing the Non-Exclusive Functions and Duties of the Deputy Director

From: John M. Abowd
Chief Scientist and Associate Director for Research and Methodology

Subject: Preliminary analysis of Alternative D (Combined Alternatives B and C)

Approved: _____ Date: ____

John M. Abowd, Chief Scientist
and Associate Director for Research
and Methodology

Preliminary Analysis of Alternative D

At the Secretary's request we performed a preliminary analysis of combining Alternative B (asking the citizenship question of every household on the 2020 Census) and Alternative C (do not ask the question, link reliable administrative data on citizenship status instead) in the January 19, 2018 draft memo to the Department of Commerce into a new Alternative D. Here we discuss Alternative D, the weaknesses in Alternative C on its own, whether and how survey data could address these weaknesses, implications of including a citizenship question for using administrative data, and methodological challenges.

Description of Alternative D: Administrative data from the Social Security Administration (SSA), Internal Revenue Service (IRS), U.S. Citizenship and Immigration Services (USCIS), and the State Department would be used to create a comprehensive statistical reference list of current U.S. citizens. Nevertheless, there will be some persons for whom no administrative data are available. To obtain citizenship information for this sub-population, a citizenship question would be added to the 2020 Census questionnaire. The combined administrative record and 2020 Census data would be used to produce baseline citizenship statistics by 2021. Any U.S. citizens appearing in administrative data after the version created for the 2020 Census would be added to the comprehensive statistical reference list.

There would be no plan to include a citizenship question on future Decennial Censuses or American Community Surveys. The comprehensive statistical reference list, built from administrative records and augmented by the 2020 Census answers would be used instead. The comprehensive statistical reference list would be kept current, gradually replacing almost all respondent-provided data with verified citizenship status data.

What are the weaknesses in Alternative C?

In the 2017 Numident (the latest available), 6.6 million persons born outside the U.S. have blank citizenship among those born in 1920 or later with no year of death. The evidence suggests that citizenship is not missing at random. Of those with missing citizenship in the Numident, a much higher share appears to be U.S. citizens than compared to those for whom citizenship data are not missing. Nevertheless, some of the blanks may be noncitizens, and it would thus be useful to have other sources for them.

A second question about the Numident citizenship variable is how complete and timely its updates are for naturalizations. Naturalized citizens are instructed to immediately apply for a new SSN card. Those who wish to work have an incentive to do so quickly, since having an SSN card with U.S. citizenship will make it easier to pass the E-Verify process when applying for a job, and it will make them eligible for government programs. But we do not know what fraction of naturalized citizens actually notify the SSA, and how soon after being naturalized they do so.

A third potential weakness of Numident citizenship is that some people are not required to have a Social Security Number (SSN), whether they are a U.S. citizen or not. It would also be useful to have a data source on citizenship that did not depend on the SSN application and tracking process inside SSA. This is why we proposed the MOU with the USCIS for naturalizations, and why we have now begun pursuing an MOU with the State Department for data on all citizens with passports.

IRS Individual Taxpayer Identification Numbers (ITIN) partially fill the gap in Numident coverage of noncitizen U.S. residents. However, not all noncitizen residents without SSNs apply for ITINs. Only those making IRS tax filings apply for ITINs. Once again, it would be useful to have a data source that did not depend on the ITIN process. The USCIS and State Department MOUs would provide an alternative source in this context as well.

U.S. Citizenship and Immigration Services (USCIS) data on naturalizations, lawful permanent residents, and I-539 non-immigrant visa extensions can partially address the weaknesses of the Numident. The USCIS data provide up-to-date information since 2001 (and possibly back to 1988, but with incomplete records prior to 2001). This will fill gaps for naturalized citizens, lawful permanent residents, and persons with extended visa applications without SSNs, as well as naturalized citizens who did not inform SSA about their naturalization. The data do not cover naturalizations occurring before 1988, as well as not covering and some between 1988-2000. USCIS data do not always cover children under 18 at the time a parent became a natu-

ralized U.S. citizen. Such children automatically become U.S. citizens under the Child Citizenship Act of 2000. The USCIS receives notification of some, but not all, of these child naturalizations. Others inform the U.S. government of their U.S. citizenship status by applying for U.S. passports, which are less expensive than the application to notify the USCIS. USCIS visa applications list people's children, but those data may not be in electronic form.

U.S. passport data, available from the State Department, can help plug the gaps for child naturalizations, blanks on the Numident, and out-of-date citizenship information on the Numident for persons naturalized prior to 2001. Since U.S. citizens are not required to have a passport, however, these data will also have gaps in coverage.

Remaining citizenship data gaps in Alternative C include the following categories:

1. U.S. citizens from birth with no SSN or U.S. passport. They will not be processed by the production record linkage system used for the 2020 Census because their personally identifiable information won't find a matching Protected Identification Key (PIK) in the Person Validation System (PVS).

2. U.S. citizens from birth born outside the U.S., who do not have a U.S. passport, and either applied for an SSN prior to 1974 and were 18 or older, or applied before the age of 18 prior to 1978. These people will be found in PVS, but none of the administrative sources discussed above will reliably generate a U.S. citizenship variable.

3. U.S. citizens who were naturalized prior to 2001 and did not inform SSA of their naturalization because they originally applied for an SSN after they were naturalized, and it was prior to when citizenship verification was required for those born outside the U.S. (1974). These people already had an SSN when they were naturalized and they didn't inform SSA about the naturalization, or they didn't apply for an SSN. The former group have inaccurate data on the Numident. The latter group will not be found in PVS.

4. U.S. citizens who were automatically naturalized if they were under the age of 18 when their parents became naturalized in 2000 or later, and did not inform USCIS or receive a U.S. passport. Note that such persons would not be able to get an SSN with U.S. citizenship on the card without either a U.S. passport or a certificate from USCIS. These people will also not be found in the PVS.

5. Lawful permanent residents (LPR) who received that status prior to 2001 and either do not have an SSN or applied for an SSN prior to when citizenship verification was required for those born outside the U.S. (1974). The former group will not be found in PVS. The latter group has inaccurate data in Numident.

6. Noncitizen, non-LPR, residents who do not have an SSN or ITIN and who did not apply for a visa extension. These persons will not be found in PVS.

7. Persons with citizenship information in administrative data, but the administrative and decennial census data cannot be linked due to missing or discrepant PII.

Can survey data address the gaps in Alternative C?

One might think that survey data could help fill the above gaps, either when their person record is not linked in the PVS, and thus they have no PIK, or when they have a PIK but the administrative data lack up-to-date citizenship information. Persons in Category 6, however, have a strong incentive to provide an incorrect answer, if they answer at all. A significant, but unknown, fraction of persons without PIKs are in Category 6. Distinguishing these people from the other categories of persons without PIKs is an inexact science because there is no feasible method of independently verifying their non-citizen status. Our comparison of ACS and Numident citizenship data suggests that a large fraction of LPRs provide incorrect survey responses. This suggests that survey-collected citizenship data may not be reliable for many of the people falling in the gaps in administrative data. This calls into question their ability to improve upon Alternative C.

With Alternative C, and no direct survey response, the Census Bureau's edit and imputation procedures would make an allocation based primarily on the high-quality administrative data. In the presence of a survey response, but without any linked administrative data for that person, the edit would only be triggered by blank citizenship. A survey response of "citizen" would be accepted as valid. There is no scientifically defensible method for rejecting a survey response in the absence of alternative data for that respondent.

How might inclusion of a citizenship question on the questionnaire affect the measurement of citizenship with administrative data? Absent an in-house admin-

istrative data census, measuring citizenship with administrative data requires that persons in the Decennial Census be linked to the administrative data at the person level. The PVS system engineered into the 2020 Census does this using a very reliable technology. However, inclusion of a citizenship question on the 2020 Census questionnaire is very likely to reduce the self-response rate, pushing more households into Nonresponse Followup (NRFU). Not only will this likely lead to more incorrect enumerations, but it is also expected to increase the number of persons who cannot be linked to the administrative data because the NRFU PII is lower quality than the self-response data. In the 2010 Decennial Census, the percentage of NRFU persons who could be linked to administrative data rate was 81.6 percent, compared to 96.7 percent for mail responses. Those refusing to self-respond due to the citizenship question are particularly likely to refuse to respond in NRFU as well, resulting in a proxy response. The NRFU linkage rates were far lower for proxy responses than self-responses (33.8 percent vs. 93.0 percent, respectively).

Although persons in Category 6 will not be linked regardless of response mode, it is common for households to include persons with a variety of citizenship statuses. If the whole household does not self-respond to protect the members in Category 6, the record linkage problem will be further aggravated. Thus, not only are citizenship survey data of suspect quality for persons in the gaps for Alternative C, collecting these survey data would reduce the quality of the administrative records when used in Alternative D by lowering the record linkage rate for persons with administrative citizenship data.

What methodological challenges are involved when combining these sources?

Using the 2020 Census data only to fill in gaps for persons without administrative data on citizenship would raise questions about why 100 percent of respondents are being burdened by a citizenship question to obtain information for the two percent of respondents where it is missing.

Including a citizenship question in the 2020 Census does not solve the problem of incomplete person linkages when producing citizenship statistics after 2020. Both the 2020 decennial record and the record with the person's future location would need to be found in PVS to be used for future statistics.

In sum, Alternative D would result in poorer quality citizenship data than Alternative C. It would still have all the negative cost and quality implications of Alternative B outlined in the draft January 19, 2018 memo to the Department of Commerce.